



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, JUNE 20, 2006

The Council of the City of San José convened in regular session at 9:30 a.m. in the Mayor's Conference Room T1841, at City Hall.

Present: Council Members - Campos, Chavez, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - Chirco (Excused).

Upon motion unanimously adopted, Council recessed at 9:35 a.m. to a Closed Session in Room T1841, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) In re Battaglia; (2) In re Cunningham; (3) County of Santa Clara, et al. v. City of San José, et al.; (4) The San José Charter of the Hells Angels Motorcycle Club, et al. v City of San José; (5) City of San José, et al. v. Operating Engineers Local Union 3, et al. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, anticipated litigation, Subsection (b) with respect to significant exposure in one (1) matter; Subsection (c) with respect to initiation of litigation in two (2) matters; and (C) confer with labor negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager designee Alex Gurza; Employee Organizations: (1) International Association of Firefighters; (2) Operating Engineers Local 3.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:30 a.m. and reconvened at 1:31 p.m. in the Council Chambers.

Present: Council Members - Campos, Chavez, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - Chirco (Excused).

INVOCATION

Vivace Youth Chorus of San José. (District 6)

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PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, the Orders of the Day and the Amended Agenda were approved, with Item 10.1(d) continued to the next General Plan; Item 10.6(b)(c) and 11.12(b)(c) continued to August 8, 2006. (10-0-1) Absent: Chirco.

CEREMONIAL ITEMS

- 1.2 Presentation of commendations to Integrated Design Associates Inc. and David Kaneda for designing the Nation's first net zero energy and zero carbon emission commercial building. (LeZotte/Chirco)**
(Rules Committee referral 6/14/06)

Action: Mayor Gonzales and Council Member LeZotte recognized and commended Integrated Design Associations Inc. and David Kaneda for their accomplishments.

- 1.3 Presentation of a commendation to George Curcija for his extraordinary volunteer services to Rebuilding Together Silicon Valley, the Second Harvest Food Bank and the people of San José. (Yeager/Chirco)**
(Rules Committee referral 6/14/06)

Action: Mayor Gonzales and Council Member Yeager recognized and commended George Curcija for his dedication and volunteer service to the residents of San José.

CONSENT CALENDAR

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams, and unanimously carried, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1) Absent: Chirco.

- 2.2 Final adoption of ordinances:**
(a) ORD. NO. 27768 – Amending Chapter 3.36 of Title 3 of the San José Municipal Code to make technical compliance clarifications to the Police and Fire Department Retirement Plan.

Documents Filed: Proof of Publication of the title of Ordinance No. 27768 executed on June 14, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27768](#) was adopted. (10-0-1) Absent: Chirco.

2.2 (b) ORD. NO. 27781 – Rezoning certain real property situated on the west side of Oakland Road, approximately 550 feet north of Rock Avenue to A(PD) Planned Development Zoning District. PDC05-113

Documents Filed: Proof of Publication of the title of Ordinance No. 27781 executed on June 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27781](#) was adopted. (10-0-1) Absent: Chirco.

(c) ORD. NO. 27783 – Amending Chapter 6.02 of Title 6 of the San José Municipal Code by amending Section 6.20.130 to specify an additional ground for denial, suspension or revocation of a license or permit and to modify two other existing grounds; adding Section 6.02.160 which restates the existing opportunity to correct requirement; adding a new Part 1.5 to provide summary suspension procedures for emergency action to abate imminent threats to the public health, safety or welfare; and repealing Sections 6.02.240 and 6.02.250; and amending Chapter 6.60 to add Section 6.60.290 prohibiting public nuisances on or within one hundred fifty feet of public entertainment business premises.

Documents Filed: (1) Memorandum from City Attorney Doyle, dated June 15, 2006, transmitting a copy of the proposed Ordinance including technical wording amendments deleting reference to “licensee” in Part 2 of Chapter 6.60 of Title 6 as unnecessary surplus language and responding to Council question regarding the Police Department’s informal resolution procedure during an imminent threat; and (2) Proof of Publication of the title of Ordinance No. 27783 executed on June 16, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27783](#) was adopted. (10-0-1) Absent: Chirco.

2.3 Adoption of a resolution authorizing the City Manager to negotiate and execute a second amendment to the existing agreement for consultant services with Carter & Burgess, Inc. to expand the scope of services related to the implementation of ProjectWise Software, increasing compensation by \$300,000, from \$383,073 to a total maximum compensation not to exceed \$683,073, and extending the term from July 1, 2006 to June 30, 2007. CEQA: Resolution Nos. 67380 and 71451, PP 06-080. (Airport)

Documents Filed: Memorandum from Director of Aviation Sherry, dated May 30, 2006, recommending to Council adoption of a resolution authorizing the City Manager to negotiate and execute a second amendment to existing consultant agreement with Carter & Burgess, Inc., to expand the scope of services related to implementation of ProjectWise Software.

2.3 (Cont'd.)

Action: [Resolution No. 73218](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Second Amendment to the Agreement with Carter & Burgess, Inc. for Consultant Services for the Implementation of the ProjectWise Software Program at the Norman Y. Mineta San José International Airport in an Amount Not to Exceed \$683,073, and Extend the Term Through June 30, 2007", was adopted. (10-0-1). Absent: Chirco.

2.4 **Approval of a first amendment to the agreement with HMH Engineers for on-call engineering and design consulting services at the Norman Y. Mineta San José International Airport, extending the term of agreement from June 30, 2006 to May 31, 2008, and amending the compensation to reflect increased labor rates with no increase in total compensation. CEQA: Resolution Nos. 67380 and 71451, PP 06-088. (Airport)**

Documents Filed: Memorandum from Director of Aviation Sherry, dated June 6, 2006, recommending Council approval of a first amendment to the agreement with HMH Engineers for on-call engineering and design consulting services at the Norman Y. Mineta San José International Airport.

Action: The first amendment to agreement with HMH Engineers was approved. (10-0-1)
Absent: Chirco.

2.5 **Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the lease agreement with Integrated Airline Services for space at 1277 Airport Boulevard, increasing the square footage of leased space and extending the term of the lease through July 31, 2011, with increased annual rental revenue of \$9,000 to the City, for total annual revenue in the amount of \$24,480. CEQA: Resolution Nos. 67380 and 71451, PP 06-096. (Airport)**

Documents Filed: Memorandum from Director of Aviation Sherry, dated May 30, 2006, recommending Council approval of a first amendment to the lease of airport premises agreement with Integrated Airline Services for space at 1277 Airport Boulevard, increasing square footage and extending term of lease through July 31, 2011.

Action: [Resolution No. 73219](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a First Amendment to the Lease Agreement with Integrated Airline Services, Inc, Increasing the Square Footage of Leased Space, and Extending the Term Through July 31, 2011, for a Total Annual Revenue in an Amount of \$24,480", was adopted. (10-0-1). Absent: Chirco.

- 2.6 Approval of an ordinance amending Chapter 13.21 of Title 13 of the San José Municipal Code to require skateboarders using City-Owned skate parks to wear helmets and associated safety equipment and authorizing skateboarding to occur on temporary skateboard equipment installed in the Downtown and Willow Glen Prohibition Zones, if the skateboarding activity is covered by a City permit or agreement from the City's property manager, as part of an outdoor special event. CEQA: Exempt, PP06-101. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Doyle, dated June 8, 2006, recommending Council approval of an ordinance amending Chapter 13.21 of Title 13 of the San José Municipal code requiring skateboards using City-owned skate parks to wear helmets and associated safety equipment and authorizing skateboarding to occur on temporary skateboard equipment installed in the Downtown and Willow Glen Skateboard Prohibition Zones if activity is covered by City permit or property manager agreement.

This item was pulled from the Consent Calendar for discussion by Council Member Campos.

Action: Upon motion by Council Member Pyle, seconded by Council Member Campos, seconded by Council Member Williams, and unanimously carried, [Ordinance No. 27784](#), entitled: "An Ordinance of the City of San José Amending Chapter 13.21 of Title 13 of the San José Municipal Code to Require the Use of Safety Equipment at City Facilities Designated as Skate Parks and to Revise the Skateboarding Prohibitions", was passed for publication. (10-0-1). Absent: Chirco.

- 2.7 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Jackie Brookner to fabricate and install artwork for the Roosevelt Community Center in a total amount not to exceed \$290,000, including funds in an amount not to exceed \$77,000 from the Environmental Services Department (ESD) to be used towards environmental artwork. CEQA: Mitigated Negative Declaration, File No. PP03-397. Council District 3. SNI: Five Wounds. (Economic Development)**

Documents Filed: Memorandum from Director of Office of Economic Development Krutko, dated May 30, 2006, recommending Council adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Jackie Brookner to fabricate and install artwork for the Roosevelt Community Center.

Action: [Resolution No. 73220](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Jackie Brookner for a Work of Art for Roosevelt Community Center in an Amount Not to Exceed \$290,000", was adopted. (10-0-1). Absent: Chirco.

2.8 Approval to implement Workforce Investment Act Programs and Projects, and adoption of a resolution authorizing the City Manager to:

- (a) Negotiate and execute all contracts, amendments, agreements, leases, subleases and memos of understanding with contractors and vendors providing services to the Workforce Investment Act Program, including, but not limited to, novations or assignments, vendor training contracts, case management contracts, consultant contracts, memorandums of understanding required with Mandatory Partners for the use of One-Stop facilities, and cities and the unincorporated area of Santa Clara County whose residents receive service under the WIA program for the period from July 1, 2006 to June 30, 2007 in accordance with procurement procedures and requirements mandated by the State and Federal governments for Workforce Investment Act grant recipients and with established City procurement procedures and requirements that have been reviewed and approved by the Silicon Valley Workforce Investment Network (SVWIN) Executive Committee and/or the SVWIN Board.**
- (b) Amend Council approved agreements that have been reviewed and approved by the SVWIN Executive Committee and/or the SVWIN Board so long as moneys have been appropriated and there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expenses of the agreement.**
- (c) Negotiate and execute all grants and sub-grant agreements for discretionary funding applied for and approved by the SVWIN Board for the period from July 1, 2006 to June 30, 2007.**

CEQA: Not a Project. (Economic Development)

Documents Filed: Memorandum from Director of Office of Economic Development Krutko, dated May 26, 2006, recommending Council adoption of a resolution authorizing the City Manager to: negotiate and execute all contracts, amendments, agreements, leases, subleases and memos of understanding with contractors and vendors providing services to the Workforce Investment Act Program; amend Council approved agreements reviewed and approved by the Silicon Valley Workforce Investment Network (SVWIN) Executive Committee and/or the SVWIN Board if moneys have been appropriated and sufficient balance available; and negotiate and execute all grants and sub-grant agreements for discretionary funding applied for and approved by the SVWIN Board for period July 1, 2006 to June 30, 2007.

This item was pulled from the Consent Calendar for discussion by Vice Mayor Chavez.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, [Resolution No. 73221](#), entitled: "A Resolution of the Council of the City of San Jose Authorizing the City Manager to Negotiate and Execute Certain Agreements Related to the Workforce Investment Act (WIA) Program and Projects for FY 2006-2007", was adopted. (10-0-1). Absent: Chirco.

- 2.9 Approval of the fifth amendment to the agreement with Camp Dresser & McKee, Inc., for landfill disposal consultant services, extending the term of agreement to June 30, 2007, and increasing compensation by \$50,000, from \$150,000 to a total amount not to exceed \$200,000. CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services Stufflebean, dated May 30, 2006, recommending Council approval of the Fifth Amendment to the agreement with Camp Dresser & McKee, Inc. for landfill disposal consultant services.

Action: The fifth amendment to agreement with Camp Dresser & McKee, Inc., was approved. (10-0-1) Absent: Chirco.

- 2.10 Approval of actions related to the Household Hazardous Waste Program.**

- (a) **Approval of an agreement with the County of Santa Clara for reauthorization of the Countywide AB 939 Implementation Fee for a three year term from July 1, 2006 to June 30, 2009, increasing the fee by \$0.37 per ton, for a total fee of \$3.72 per ton to fund collection of Universal Wastes from San José residents by the Countywide Household Hazardous Waste Program and implementation of various source reduction and recycling activities.**
- (b) **Approval of an agreement with the County of Santa Clara Countywide Household Hazardous Waste Collection Program for the term July 1, 2006 through June 30, 2009 at no cost to the City of San José.**

CEQA: Not a Project. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services Stufflebean, dated June 6, 2006, recommending Council approval of an agreement with the County of Santa Clara for reauthorization of the Countywide AB939 Implementation Fee for a three year term to fund collection of Universal Wastes from San José residents.

Action: The agreements with the County of Santa Clara actions related to the Household Hazardous Waste Program were implemented. (10-0-1) Absent: Chirco.

- 2.11 Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2005-2006 #19, and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration's Memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)**

Documents Filed: Memorandum from Director of Finance Johnson, dated May 26, 2006, recommending Council approval of award of open purchases orders and authorization for the Director of Finance to execute purchase orders.

Action: The award of open purchase orders for FY 2005-2006 #19 was approved and the Director of Finance authorized to execute the purchase orders. (10-0-1) Absent: Chirco.

- 2.12 Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the agreement for consulting services between the City of San José and Langham Consulting Services, Inc. extending the term of the agreement from June 30, 2006 to September 30, 2006 and increasing total compensation by \$44,000, to a not-to-exceed amount of \$143,000 in order to provide Quality Assurance services for the Consolidated Utility Billing System (C-UBS) project through the end of project stabilization period. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated May 30, 2006, recommending Council adoption of a resolution authorizing the City Manager to negotiate and execute a First Amendment to the consulting services agreement with Langham Consulting Services, Inc. for the Consolidated Utility Billing System (C-UBS) project through the end of the stabilization period.

This item was pulled from the Consent Calendar for discussion by Vice Mayor Chavez.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, [Resolution No. 73222](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a First Amendment to the Agreement with Langham Consulting Services, Inc. for Quality Assurance Services for the Consolidated Utility Billing System (C-UBS) Project”, was adopted. (10-0-1). Absent: Chirco.

- 2.13 Report on bids and approval of the award of the purchase of Freestanding Furniture and authorization to the Director of Finance to execute the purchase orders for the newly reconstructed Evergreen Branch and Cambrian Branch Libraries to:**

- (a) Tab Sales (San José, CA), the low bidder for bid group B, for an amount not to exceed \$36,243.15, including tax;
- (b) Vanguard Legato Group (San José, CA), the low bidder for bid group E, I and J, for an amount not to exceed \$103,922.55, including tax;
- (c) Agati (Chicago, IL), the low bidder for bid group A, for an amount not to exceed \$110,816.00, including tax; and
- (d) Contract Office Group (Milpitas, CA), the low bidder for bid group C, D, F, G, H and K, for an amount not to exceed \$136,509.50, including tax.

CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Johnson, dated May 30, 2006, reporting on bids and recommending Council approval of award of the purchase of Freestanding Furniture for newly reconstructed Evergreen Branch and Cambrian Branch libraries to low bidders: Tab Sales, Vanguard Legato Group, Agati, and Contract Office Group; and authorization to Director of Finance to execute the purchase orders for same.

Action: The award of the purchase of Freestanding Furniture for the projects: (1) to Tab Sales, the low bidder for bid group B; (2) to Vanguard Legato Group, the low bidder for bid group E, I and J; and (3) to Contract Office Group, the low bidder for bid group C, D, F, G, H, and K, were approved and the Director of Finance was authorized to execute the purchase orders. (10-0-1) Absent: Chirco.

2.14 Approval of actions related to the Business Tax Programs.

- (a) Approval of an ordinance authorizing the Director of Finance to administer a business tax amnesty program which forgives taxpayers who pay certain past due business taxes from liability for remaining past due business taxes, interest, and penalties;
- (b) Approval of an ordinance authorizing a Business Improvement District Assessment Amnesty Program for the Downtown, Japantown, and Willow Glen Business Improvement Districts to run concurrently with the Business Tax Amnesty Program; and
- (c) Approval of an ordinance amending Section 4.76.345 of Chapter 4.76 of Title 4 of the San José Municipal Code to simplify the business tax hardship exemption process by eliminating the current requirement that sole proprietorships who have claimed the exemption file with the City a statement of financial hardship with supporting evidence by November 30 of the following year.

(Finance) CEQA: Not a Project.

(This item renumbered to Item 3.9).

Action: See Item 3.9 for Council action taken.

2.19 Approval of the agreement between the City of San José and Michael O. Barry for hearing officer services, for the period beginning July 1, 2006 through June 30, 2008 with three one-year options exercisable by the City, at an annual agreement not to exceed \$88,719.00. CEQA: Not a Project. (Planning, Building and Code Enforcement/Transportation)

Documents Filed: Memorandum from Director of Transportation Director Helmer and Acting Director of Planning, Building and Code Enforcement Horwedel, dated May 31, 2006, recommending Council approval of agreement with Michael O. Brady for hearing officer services for period July 1, 2006 through June 30, 2008 and three one-year options.

Public Comment: Ross Signorino spoke regarding concerns over a junk yard on Saratoga Avenue where cars for sale are lined up.

Action: Upon motion by Council Member Pyle, seconded by Council Member LeZotte, and unanimously carried, the agreement between the City of San José and Michael O. Barry was approved, and the issue of used car dealerships parking their inventory on the street was referred to the City Attorney. (9-0-2) Absent: Chirco, Yeager.

2.15 Adoption of a resolution approving the revised Council Policy 7-1 – Below Market Rental Policy for Use of City-owned Land and Buildings by Non-Profit or Charitable Organizations or for Governmental or Other Public Purposes, and direction to the Public Works Department to provide oversight for the review and negotiation of all City-owned leases and or property use agreements. CEQA: Not a Project. (General Services/Public Works)
(Deferred from 5/23/06 – Item 3.6)

2.15 (Cont'd.)

Documents Filed: (1) Memorandum from Director of General Services Jensen and Director of Public Works Allen, dated May 3, 2006, recommending Council approval of revised Council Policy 7-1 and direction to Public Works Department to provide oversight for review and negotiations of all City-owned leases and or property use agreements; and (2) Supplemental memorandum from Director of General Services Jensen and Director of Public Works Allen, dated June 9, 2006, providing Council with staff's outreach efforts to non-profit organizations and a summary of feedback received on the Revised Council Policy 7-1.

This item was pulled from the Consent Calendar for discussion by Council Member Reed. Brief Council discussion ensued.

Action: Upon motion by Council Member Reed, seconded by Council Member Pyle, and unanimously carried, [Resolution No. 73223](#), entitled: "A Resolution of the Council of the City of San José Approving Revisions to Council Policy 7-1, Pertaining to Below Market Rentals for Use of City-Owned Land and Buildings by Nonprofit or Charitable Organizations or for Governmental or Other Public Purposes", was adopted, and Staff was directed to (1) Return with an information memorandum regarding the process and the impacts of the decisions, especially on Little Leagues; (2) Instruct the Redevelopment Agency to return with a similar policy; and (3) Remove the Friends of the Guadalupe River Park from the list of Non-Profit organizations attached to the June 9, 2006 Supplemental Memorandum. (9-0-2). Absent: Chirco, Yeager.

2.16 Adoption of a resolution:

- (a) **Approving a 12-month extension to the Housing Services Partnership contract to provide homeless services on behalf of the City through June 30, 2007;**
- (b) **Approving an increase in the Housing Services Partnership contract amount from \$1,034,167 to \$2,247,879 to cover the cost of services provided through June 30, 2007;**
- (c) **Authorizing the Director of Housing to negotiate and execute all necessary documents.**

CEQA: Not a Project. (Housing)

Documents Filed: Memorandum from Director of Housing Krutko, dated May 30, 2006, recommending Council adoption of a resolution approving a 12-month extension and contract increase to Housing Services Partnership for homeless services, and authorizing the Director of Housing to negotiate and execute all necessary documents.

Action: [Resolution No. 73224](#), entitled: "A Resolution of the Council of the City of San José (I) Approving a 12-Month Extension to the Housing Services Partnership Contracts to Provide Homeless Services on Behalf of the City Through June 30, 2007; (II) Approving an Increase in the Housing Services Partnership Contracts Amount from \$1,034,167 to \$2,247,879 to Cover the Cost of Services Provided Through June 30, 2007 and (III) Authorizing the Director of Housing to Negotiate and Execute all Necessary Documents", was adopted. (10-0-1). Absent: Chirco.

2.17 Approval of two consultant master agreements with the following firms for various trail projects:

- (a) Callander Associates Landscape Architecture, Inc. for a variety of landscape architectural support services from the date of execution through June 30, 2011 in an amount not to exceed \$2,000,000.**
- (b) CH2M HILL, Inc. for a variety of engineering support services from the date of execution through June 30, 2011 in an amount not to exceed \$2,000,000.**

CEQA: Not a Project. Council Districts various. (Parks, Recreation and Neighborhood Services/Public Works)

Documents Filed: (1) Memorandum from Director of Public Works Allen and Acting Director of Parks, Recreation and Neighborhood Services Balagso, dated May 30, 2006, recommending Council approval of consultant master agreements with Callander Associates Landscape Architecture, Inc. and CH2M HILL, Inc., for various trail projects; and (2) Supplemental memorandum from Director of Public Works Allen, dated June 19, 2006, providing further analysis on the use of consultant services for development of recreational trails in San José.

Action: The consultant master agreements with Callander Associates Landscape Architecture, inc., and CH2M Hill, Inc., were approved. (10-0-1) Absent: Chirco.

2.18 Approval to award a contract for the Penitencia Creek Trail Reach 2, Phase 1-A Development Project:

- (a) Report on bids and award of contract for the Penitencia Creek Trail Reach 2, Phase 1-A Development Project to the low bidder, Suarez & Munoz Construction, Inc., in the amount of \$227,950, and approval of a contingency in the amount of \$11,400.**
- (b) Adoption of the following 2006-2007 Appropriation Ordinance amendments in the Council District 4 Construction and Conveyance Tax Fund.**
 - (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department, for the Penitencia Creek Trail Reach 2, Phase 1-A Development Project in the amount of \$312,000; and**
 - (2) Decrease the Ending Fund Balance by \$312,000.**

CEQA: Mitigated Negative Declaration, PP0103-062, Resolution No. 72526. Council District 4. (Public Works/Parks, Recreation and Neighborhood Services/City Manager's Office)

Action: This item was deferred to June 27, 2006.

2.20 Adoption of resolutions approving, confirming and adopting the Annual Budget Reports for Fiscal Year 2006-2007 for City of San José Maintenance Districts 1, 2, 5, 8, 9, 11, 13, 15, 18, 19, 20, 21 and 22 and levying the assessments therein. CEQA: Not a Project. Council Districts 2, 3, 4 and 8. (Public Works)

Documents Filed: Memorandum from Director of Public Works Allen, dated May 30, 2006, recommending Council adoption of resolutions approving, confirming and adopting the Annual Budget Reports for Fiscal Year 2006-2007 for City of San José Maintenance Districts 1, 2, 5, 8, 9, 11, 13, 15, 18, 19, 20, 21, and 22 and levying of assessments.

Action: [Resolution No. 73225](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 1 (Los Paseos) for Fiscal Year 2006-2007 and Levying Assessments”; [Resolution No. 73226](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 2 (Trade Zone Boulevard – Lundy Avenue) for Fiscal Year 2006-2007 and Levying Assessments”; [Resolution No. 73227](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 5 (Orchard Parkway – Plumeria Drive) for Fiscal Year 2006-2007 and Levying Assessments”; [Resolution No. 73228](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 8 (Zanker - Montague) for Fiscal Year 2006-2007 and Levying Assessments”; [Resolution No. 73229](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 9 (Santa Teresa – Great Oaks) for Fiscal Year 2006-2007 and Levying Assessments”; [Resolution No. 73230](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 11 (Brokaw Road from Junction Avenue to Old Oakland Road) for Fiscal Year 2006-2007 and Levying Assessments”; [Resolution No. 73231](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 13 (Karina – O’Nel) for Fiscal Year 2006-2007 and Levying Assessments”; [Resolution No. 73232](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 15 (Silver Creek Valley) for Fiscal Year 2006-2007 and Levying Assessments”; [Resolution No. 73233](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 18 (The Meadowlands) for Fiscal Year 2006-2007 and Levying Assessments”; [Resolution No. 73234](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 19 (River Oaks Area Landscaping) for Fiscal Year 2006-2007 and Levying Assessments”; [Resolution No. 73235](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 20 (Renaissance – North First Landscaping) for Fiscal Year 2006-2007 and Levying Assessments”; [Resolution No. 73236](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 21 (Gateway Place – Airport Parkway) for Fiscal Year 2006-2007 and Levying Assessments”; and [Resolution No. 73237](#), entitled: “A Resolution of the Council of the City of San José Approving the Annual Budget Report for Maintenance District 22 (Hellyer Avenue – Silver Creek Valley Road) for Fiscal Year 2006-2007 and Levying Assessments”, were adopted. (10-0-1). Absent: Chirco.

- 2.21 Adoption of a resolution of intention to vacate an easterly portion of Ninth Street between Taylor and Jackson Streets with reservation of a public service easement and setting a public hearing on August 8, 2006 at 1:30 p.m. CEQA: Mitigated Negative Declaration, PDC05-059. Council District 3. SNI: 13th Street. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works Allen, dated May 30, 2006, recommending Council adoption of a resolution of intention to vacate an easterly portion of Ninth Street between Taylor and Jackson Streets for public service easement and setting a public hearing; and (2) Memorandum from Planning Commission Secretary Horwedel, dated, June 6, 2006, transmitting the Planning Commission recommendation to Council for approval of vacation of a portion of public right-of-way on east side of N. Ninth Street between Jackson and Taylor Streets.

Action: [Resolution No. 73238](#), entitled: “A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate a Portion of Ninth Street Between Taylor and Jackson Streets with Reservation of a Public Service Easement”, was adopted. (10-0-1). Absent: Chirco.

- 2.22 Approval of a consultant master agreement with GEOTivity Inc., for flow monitoring consultant services for the City’s Sanitary Sewer Master Plan Phase II and Updates Project (Phase II), for the period June 20, 2006 to December 31, 2009, in a total amount not to exceed \$1,200,000. CEQA: Exempt, File No. PP05-274. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Allen, dated May 30, 2006, recommending Council approval of consultant master agreement with GEOTivity Inc., for flow monitoring consultant services for City’s Sanitary Sewer Master Plan Phase II and Updates Project (Phase II).

Action: The consultant master agreement with GEOTivity Inc., was approved. (10-0-1) Absent: Chirco.

- 2.23 Report on bids and take appropriate action based on the evaluation of bids for New Fire Station No. 34 located at 1034 Las Plumas Avenue near Nipper Avenue. CEQA: Mitigated Negative Declaration, File No. PP05-104. Council Districts 3 and 4. (Public Works/Fire)**

Action: This item was deferred to June 27, 2006.

- 2.24 (a) **Report on bids and award of contract for the Plata Arroyo Park Restroom Project to the low bidder, ESR Construction, to include the base bid in the amount of \$294,000 and approval of a contingency in the amount of \$30,000.**
- (b) **Adoption of the following 2006-2007 appropriation ordinance amendments in the Subdivision Park Trust Fund (Fund 375):**
- (1) **Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the Plata Arroyo Park Restroom Project by \$65,000; and**
- (2) **Decrease the Reserve: Future PDO/PIO Projects by \$65,000.**
- (c) **Adoption of the following 2006-2007 appropriation ordinance and funding source resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
- (a) **Increase the estimate for Earned Revenue by \$200,000.**
- (b) **Establish an appropriation to the Department of Public Works for the Plata Arroyo Park Restroom Project (PSM #452) in the amount of \$200,000.**
- (d) **Adoption of resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Plata Arroyo Park Restroom Project as more specifically described in the memorandum from the Redevelopment Agency. (City Manager's Office) CEQA: Exempt, PP03-08-251. Council District 5. SNI: Gateway East. (Public Works/Parks, Recreation and Neighborhood Services)**

Action: This item was dropped from the Agenda.

- 2.25 **Approval of Mayor Gonzales' travel to Denver, Colorado, July 22-24, 2006, to attend the 2006 Democratic Committee National Conversation. Funding Source: Democratic Leadership Committee. (Mayor)**

Documents Filed: Memorandum from Mayor Gonzales, dated June 14, 2006, recommending Council approval of his travel to Denver, Colorado on July 22-24, 2006 to attend the 2006 Democratic Leadership Committee National Conversation at no cost to the City.

Action: The travel for Mayor Gonzales was approved. (10-0-1) Absent: Chirco.

END OF CONSENT CALENDAR

JOINT COUNCIL/REDEVELOPMENT AGENCY BOARD

The Redevelopment Agency Board was convened at 2:07 p.m. to consider Items 9.5, 9.6 and 9.7 in a joint session.

9.5 Approval by the City Council and Redevelopment Agency Board of the Mayor's June Budget Message. (Mayor)

Documents Filed: (1) Memorandum from Mayor Gonzales, dated June 7, 2006, recommending Council approval of the Mayor's June Budget Message; (2) Memorandum from Council Member Cortese, dated June 14, 2006, responding to some elements of the Mayor's Budget Message and requesting incorporation of his ideas prior to release of final message; (3) Memorandum from Mayor Gonzales, dated June 15, 2006, responding to Council Member Cortese's memorandum of June 14, 2006; and (3) Memorandum from Council Member Cortese dated June 20, 2006, responding to Mayor Gonzales' memorandum of June 15, 2006.

Office of the Mayor Budget Policy Director Joe Guerra responded to Council questions and comments.

Motion: Vice Mayor Chavez moved approval of the Mayor's June Budget Message. Council Member Pyle seconded the motion.

Public Comments: Bobby Lopez, President, San José Police Officers Association, spoke in support of the additional 10 police officers.

Extensive Council discussion ensued.

Action: On a call for the question, the motion carried, the Mayor's June Budget Message was approved, with Staff directed to correct the omissions of the appropriations already approved for the Capital Budget and Capital Improvement Projects for District 2. (8-2-1). Noes: LeZotte, Reed. Absent: Chirco.

9.6 Approval of an ordinance amending Sections 8.20.200 and 8.20.370 of Chapter 8.20 of Title 8 of the San José Municipal Code to allow continued collection of the Emergency Communication System Support (ECSS) Fee past the current sunset date of December 31, 2006, and establish a new sunset review date of June 30, 2012, and to clarify the requirements and procedures applicable to claims for refund of the fee. (City Manager's Office)

Documents Filed: (1) Memorandum from Budget Director Lisenbee, dated June 15, 2006, recommending Council approval of an ordinance amending Section 8.20.200 D of Chapter 8.20 of Title 8 of the San José Municipal Code allowing collection of Emergency Communication System Support (ECSS) Fees past current sunset date and establishing a new sunset review date; and (2) Memorandum from City Attorney Doyle, dated June 15, 2006, recommending Council approval of an ordinance amending Section 8.20.370 of the San José Municipal Code clarifying the requirements and procedures applicable to claims for refund of the Emergency Communication System Support Fee.

9.6 (Cont'd.)

Council comments and questions followed.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried, [Ordinance No. 27785](#), entitled: “An Ordinance of the City of San José Amending Sections 8.20.200 and 8.20.370 of Chapter 8.20 of Title 8 of the San José Municipal Code to Extend the Date for Imposition of the Emergency Communications System Support Fee through June 30, 2009 and to Clarify the Requirements and Procedures Applicable to Claims for Refund of the Fee”, was passed for publication, with a revised sunset date of June 30, 2009. Staff was directed to bring this item back to Council sooner than 2009, if a surplus of fees are collected. (7-3-1). Noes: Cortese, LeZotte, Reed. Absent: Chirco.

9.7 Approval of the Fiscal Year 2006-2007 Operating and Capital Budgets for the City of San José and Redevelopment Agency and Schedule of Fees and Charges.

- (a) Adoption of resolutions by the City Council approving and adopting the Operating Budget for Fiscal Year 2006-2007 for the City of San José, the Capital Budget for Fiscal Year 2006-2007 for the City of San José, and the Five Year Capital Improvement Program for Fiscal Year 2007-2011 for the City of San José as revised by the Mayor’s Budget Message and directing the City Manager to prepare final documents for adoption.
- (b) Adoption of a resolution by the City Council establishing the Schedule of Fees and Charges for Fiscal Year 2006-2007.
- (c) Adoption of a resolution by the City Council establishing fees and charges for the use of parks and recreational facilities for Fiscal Year 2006-2007.

(City Manager’s Office)

- (d) Adoption of resolutions by the Agency Board:

- (1) Approving the Operating Budget for Fiscal Year 2006-2007 for the Redevelopment Agency of the City of San José; and,
- (2) Approving the Capital Budget for Fiscal Year 2006-2007 for the Redevelopment Agency of the City of San José.

(Redevelopment Agency)

Documents filed: (1) See Appendix A for additional budget documents filed. (2) Memorandum from Redevelopment Agency Executive Director Mavrogenes, dated May 30, 2006, recommending Council adoption of resolutions for the Redevelopment Agency’s Operating and Capital Budgets for Fiscal Year 2006-2007; (2) Correspondence from Beverly Bryant of the Home Builders Association, dated June 14, 2006, registering their objection to proposed builder fee increases; and (3) Electronic mail from Pat Sausedo, dated June 14, 2006, transmitting correspondence from the National Association of Industrial and Office Properties (NAIOP), dated June 12, 2006, stating their objection to the proposed builder fee increases.

Public Comment: Beverly Bryant (Home Builders Association of Northern California) voiced objections to raising building permit fees.

9.7 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, and carried, [Resolution No. 73239](#), entitled: "A Resolution of the Council of the City of San Jose Adopting the Operating Budget for Fiscal Year 2006-2007"; [Resolution No. 73240](#), entitled: "A Resolution of the Council of the City of San Jose Adopting the Capital Budget for Fiscal Year 2006-2007"; [Resolution No. 73241](#), entitled: "A Resolution of the Council of the City of San Jose Adopting the Five Year Capital Improvement Program for Fiscal Years 2007-2011"; [Resolution No. 73242](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72737 to Amend and Establish Various Fees and Charges Effective July 1, 2006"; and [Resolution No. 73243](#), entitled: "A Resolution of the Council of the City of San José Setting the Schedule of Fees for the Use of Parks and Recreational Facilities and Repealing Resolution No. 72957, to Effective on the Date as Indicated Below"; Redevelopment Agency Resolution 5681, entitled: "Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Approving the Operating Budget for Fiscal Year 2006-2007 for the Redevelopment Agency of the City of San José"; and Redevelopment Agency Resolution 5682, entitled: "Resolution of the Board of Directors of the Redevelopment Agency of the City of San José Approving the Capital Budget for Fiscal Year 2006-2007 for the Redevelopment Agency of the City of San José"; were adopted. (8-2-1). Noes: Cortese, LeZotte. Absent: Chirco.

The Redevelopment Agency portion of the meeting was adjourned at 2:53 p.m.

PUBLIC SAFETY SERVICES

8.1 Acceptance of the IPA's Year-End Report and Policy recommendations:

- (a) **That the San José Police Department establish an Expanded Shooting at Vehicles Policy.**
- (b) **That the San José Police Department continue to train officers to wait for backup, when practical, in situations where there are reasonable objective indicators that the situation could escalate to violence.**

(Independent Police Auditor)

Documents filed: (1) Memorandum from Independent Police Auditor Attard, dated June 14, 2006, transmitting the 2005 IPA Year End Report detailing the activities and findings of the Office of the Independent Police Auditor; and (2) Supplemental memorandum from Police Chief Davis, dated June 19, 2006, recommending language change in recommendation contained in the IPA 2005 Year End Report.

Independent Police Auditor Barbara Attard outlined the IPA's 2005 year end report and responded to Council questions.

8.1 (Cont'd.)

Motion: Council Member Nguyen moved approval of the Independent Policy Auditor's report, with the addition that the Police Department be directed to consider an expanded policy pertaining to vehicle chases for report back with the IPA'S 2006 Mid-Year Report, and continue to train officers to wait for backup where practical, and that the IPA consider including certain additional comparative data in future reports. Council Member Cortese seconded the motion.

Public Comment: Sanjeev Bery, ACLU, stated concerns about an increase in the number of complaints.

Action: On a call for the question, the motion carried unanimously, the report was accepted, with the following directions: (1) San José Police Staff directed to consider establishing an expanded Shooting at Vehicles Policy and report back to Council with the IPA's 2006 Mid-Year Report; (2) That the San José Police Department continue to train officers to wait for backup, when practical, in situations where there are reasonable objective indicators that the situation could escalate to violence; and (3) The Independent Police Auditor was directed to consider including additional comparative data in future reports, such as: comparison of annual calls for police service in San José, as well as changes in San José population, and comparable data from similar cities and other national standards, where available. (10-0-1) Absent: Chirco.

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – June 7, 2006 Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee Report, dated June 7, 2006.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council

- (1) Review June 20, 2006 Draft City Council Agenda
 - (a) Adds to the June 20, 2006 Draft City Council Agenda

The Committee recommended approval of the June 20, 2006 Draft City Council Agenda with one addition.

- (2) Add New Items to June 13, 2006 Agenda
 - (a) Mayor and Council Member Requests
 - (b) Council Appointee Requests

The Committee recommended approval of the June 13, 2006 City Council Agenda with three additions.

3.2 Report of the Rules Committee – June 7, 2006

Vice Mayor Chavez, Chair

(b) City Council (Cont'd.)

(2) Add New Items to June 13, 2006 Agenda

(b) Council Appointee Requests

Discussion followed regarding the Planning Commission interviews scheduled for the June 13, 2006 City Council Meeting. Attachment: Memorandum from City Attorney Doyle, dated June 7, 2006, transmitting previously distributed memorandum regarding various issues pertaining to upcoming scheduled interviews of Planning Commissioner applicants.

(3) List of Reports Outstanding

The Committee accepted the City Manager's report on two reports outstanding.

(c) Legislative Update

(1) State

Director Intergovernmental Relations Betsy Shotwell provided an oral update on AB2987 and SB1128 and responded to questions regarding the November 2007 Infrastructure Bond Measure.

(2) Federal - There was no report.

(d) Meeting Schedules

(1) Approval of a City Council/Santa Clara Valley District Board Joint Study Session on Water Issues. Attachment: Memorandum from Director of Environmental Services Stufflebean, dated June 1, 2006, recommending approval to schedule Joint Study Session with Council and Santa Clara Valley Water District Board of Directors on water issues.

The Committee recommended approval of the meeting schedule.

(e) The Public Record. Attachment: Memorandum from City Clerk Price, dated June 1, 2006, transmitting items for the public record and administration for the period of May 11 – 30, 2006.

The Committee noted and filed the Public Record.

(f) Appointments to Boards, Commissions and Committees - There were none.

(g) Rules Committee Reviews, Recommendations and Approvals - There were none.

3.2 Report of the Rules Committee – June 7, 2006
Vice Mayor Chavez, Chair

- (h) Open Forum
 - (1) Bill Chew thanked his friends for their support during his candidacy for District 3.
 - (2) William Garbett suggested the City could save money in recruitment costs by selecting Joe Horwedel as Director of Building, Planning and Code Enforcement.
- (i) Adjournment - The meeting was adjourned at 2:35 p.m.

3.2 Report of the Rules Committee – June 14, 2006 (Partial)
Vice Mayor Chavez, Chair

Documents Filed: The Partial Rules Committee Report, dated June 14, 2006.

- (c) Legislative Update
 - (1) State
 - (a) State Housing Legislation. Attachment: Memorandum from Director of Housing Krutko, dated June 8, 2006, recommending Council positions of support on the following legislation:
 - (1) Support AB2745 (Jones), Discharge Planning
 - (2) Support SB1609 (Simitian), Reverse Mortgages
 - (3) Support SB1676 (Ducheny), Condominium Conversions

The Committee recommended approval.

- (b) AB2634 (Lieber), Housing Elements Update. Attachment: Memorandum from Director of Housing Krutko, dated June 8, 2006, recommending a Council position for following legislation:
 - (1) Support AB2634, amended to clarify that the addition of the extremely low income (ELI) category is calculated as 50% of the very low income (VLI) category and that the ELI calculation is not in addition to the full VLI requirement.

The Committee recommended approval.

Public Comment: Stephanie Schaff (EHC Life Builders) and Chris Block (CHDC) spoke in support of AB2634.

Council Member Cortese expressed opposition to AB2634.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and carried, the Rules/Partial Rules Committee Report and the Actions of June 7, 2006 and June 14, 2006, were approved. (9-1-1). Noes: Cortese. Absent: Chirco.

3.4 Adoption of amendments to the annual appropriation ordinance and funding sources resolution for various operating and capital funds to reflect estimated Fiscal Year 2005-2006 revenue receipts, expenses, and encumbrances. CEQA: Not a Project. (City Manager's Office)

Documents Filed: (1) Memorandum from Budget Director Lisenbee, dated June 9, 2006, recommending Council approval of Appropriation Ordinance and Funding Sources Resolution amendments in various funds as detailed in Attachments A, B and C; and (2) Supplemental memorandum from Budget Director Lisenbee, dated June 13, 2006, providing replacement page (Attachment B - Page 9) to earlier memorandum dated June 9, 2006.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and unanimously carried, [Ordinance No. 27786](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in Various Operating and Capital Funds to Reflect Estimated 2005-2006 Revenue Receipts, Expenses and Encumbrances; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption"; and [Resolution No. 73245](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72762 to Implement the 2005-2006 Annual Report Recommendations and Make Appropriate Technical Adjustments to Adjust Revenues in Various Operating Funds", were adopted. (10-0-1). Absent: Chirco.

3.5 Adoption of the following appropriation ordinance and funding sources resolution amendments related to the Dolce Hayes Mansion:

- (a) **Establish a Transfer in the Hayes Mansion Phase III Fund to the Community Facilities Revenue Fund for \$350,000.**
 - (b) **Decrease the Ending Fund Balance in the Hayes Mansion Phase III Fund by \$350,000.**
 - (c) **Increase the Transfer-In in the Community Facilities Revenue Fund by \$800,000.**
 - (d) **Increase the Line of Credit in the Community Facilities Revenue Fund by \$800,000.**
 - (e) **Increase the Transfer to the Community Facilities Revenue Fund from the General Fund by \$450,000.**
 - (f) **Decrease the Workers' Compensation Claims appropriation by \$450,000.**
- CEQA: Not a Project. (Finance)**

Documents Filed: See June 27, 2006 minutes for documents filed.

Public Comments: Ross Signorino spoke on the issue.

3.5 (Cont'd.)

Action: Upon motion by Council Member Cortese, seconded by Council Member Yeager and carried unanimously, Item 3.5 was deferred to June 27, 2006, with Staff directed to return with as much of the information requested as possible on 6/27/06, including a report on a timeline when the balance of the information can be provided: (1) Comparison of current year's revenue and losses versus 2003 when the Hayes Mansion was managed under different leadership to highlight the positive changes made over the last two years to increase revenues and decrease expenses, including a list of ways that Dolce Hayes mansion has been able to reduce its overall operating expenses and increase its marketing efforts to increase revenues. (2) Provide a list of previous Council actions associated with Hayes Mansion over the last two years to provide a better understanding of financial support already committed to the Hayes Mansion. (3) Provide a list of alternatives or other options for Council to consider as they look at the financial situation facing the Hayes Mansion, including the impacts of not approving Staff's recommendation before the end of the fiscal year. (4) Bring back to Council for further discussions, opportunities to decrease the reliance on the General Fund, including options outlined by Staff in their memorandum dated June 6, 2006. (5) Tie the current numbers in the memorandum to the monthly financial report which estimates subsidy levels, including a review of the option of sale of the Hayes Mansion property. (6) Estimate the amount of principal reduction needed over time to obtain a positive cash flow. (7) Clarify the results under the option to sell, including the impact of selling in a down market, would the City be required to pay off the debt, how much would the debt be and would it affect the selling price or the potential buyer. (10-0-1). Absent: Chirco.

3.6 **Calling a Special Election to fill upcoming vacancy in District 6:**

- (a) **Adopt a resolution calling for a Special Primary Election to be consolidated with the General Election on November 7, 2006, to fill the anticipated vacancy in District 6 for the balance of the term expiring December 31, 2008.**
- (b) **Direct the City Clerk to negotiate with the Santa Clara County Registrar of Voters to schedule a District 6 Runoff Election at the earliest possible date with the least potential cost, following the November Primary Election.**
- (c) **Direct the City Manager to allocate resources to cover the costs of the District 6 Special Primary and Runoff Elections.**

(City Clerk)

(Rules Committee referral 6/14/06)

Documents Filed: Memorandum from Mayor Gonzales, dated June 14, 2006, recommending Council adoption of a resolution calling for a special primary election consolidated with the November 7, 2006 General Election to fill the anticipated District 6 vacancy; direct City Clerk to negotiate with Santa Clara County Registrar of Voters to schedule runoff election after the November election; and direct City Manager to allocate resources to cover costs of both elections.

3.6 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, [Resolution No. 73246](#), A Resolution of the Council of the City of San José Calling for a Special Municipal Election to be Held in Council District 6; Establishing the Dates for and the Procedures to Conduct and Take Actions with Regard to the Election; Requesting the Board of Supervisors of the County of Santa Clara to Canvass the Returns of Said Election and to Permit the County Registrar of Voters to Render Certain Services to the City of San José Relating to the Conduct of Said Election; Establishing Fees for Candidate Statements and for Filing Notices of Intent to Circulate Petitions; and Delegating to the City Clerk the Authority to Take Other Actions with Regard to the Election”, was adopted. (10-0-1). Absent: Chirco.

3.7 **Approval of actions related to the proposed City Charter amendments relating to restrictions on outside employment and Council Member salary setting: Direct that specific language for proposed City Charter amendments related to outside employment for Council Members and Council salary setting be prepared and brought back to the Council at its meeting of August 8, 2006, for consideration and placement on the November 2, 2006 Ballot. (Mayor) (Rules Committee referral 6/14/06)**

Documents Filed: Memorandum from Mayor Gonzales, Council Members Williams and Pyle, dated June 16, 2006, recommending specific language for proposed City Charter amendments relating to outside employment by Council Members and Council Salary Setting for consideration for placement on the November 2, 2006 ballot.

Council discussion followed.

Council Member Reed expressed opposition stating this may discourage small business people, adding that salary should be a separate issue. Council Members Cortese, LeZotte and Nguyen also expressed opposition.

Public Comment: Ross Signorino spoke in support of the actions proposed by the Mayor and Council Members Williams and Pyle.

Action: Upon motion by Council Member Pyle, seconded by Council Member Williams and carried, the memorandum from Mayor Gonzales and Council Members Williams and Pyle, dated June 16, 2006, was approved, with Staff directed to return on August 8, 2006, including a request to the Mayor’s Office to bring back more information about outside work restrictions in the Cities of San Francisco, Los Angeles and Oakland. (6-4-1. Noes: Cortese, LeZotte, Nguyen, Reed. Absent: Chirco.)

- 3.8 Approval of an ordinance amending Title 4 of the San José Municipal Code by adding a new Chapter 4.82, amending various sections of Title 4 and repealing Section 4.76.820, to establish uniform requirements and procedures applicable to the presentation and processing of certain tax claims with the City of San José, including a one year claims period, and to establish a transition period for the presentation of tax refund claims that would be untimely under the new procedures and requirements. CEQA: Not a Project. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Doyle, dated June 15, 2006, recommending Council approval of an ordinance amending Title 4 of the San José Municipal Code establishing uniform requirements and procedures applicable to the presentation and processing of certain tax refund claims.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, [Ordinance No. 27787](#), entitled: "An Ordinance of the City of San José Amending Title 4 of the San José Municipal Code to Add a New Chapter 4.82 Establishing Uniform Requirements and Procedures Applicable to the Presentation and Processing of Certain Tax Refund Claims with the City of San José Including a One Year Claims Period; and Amending Sections 4.46.080, 4.47.060, 4.54.080, 4.58.220, 4.64.080, 4.68.210, 4.72.130, 4.74.130, 4.76.340 and 4.78.290 and Repealing Section 4.76.820 of Title 4 of the San José Municipal Code Relating to the Time Period and Other Requirements for Filing and Processing Various Tax Refund Claims; and to Establish a Transition Period for the Presentation of Tax Refund Claims That Would be Untimely Under the New Procedures and Requirements", was passed for publication. (10-0-1). Absent: Chirco.

3.9 Approval of actions related to the Business Tax Programs:

- (a) **Approval of an ordinance authorizing the Director of Finance to administer a business tax amnesty program, which forgives taxpayers who pay certain past due business taxes from liability for remaining past due business taxes, interest, and penalties;**
- (b) **Approval of an ordinance authorizing a Business Improvement District Assessment Amnesty Program for the Downtown, Japantown, and Willow Glen Business Improvement Districts to run concurrently with the Business Tax Amnesty Program; and**
- (c) **Approval of an ordinance amending Section 4.76.345 of Chapter 4.76 of Title 4 of the San José Municipal Code to simplify the business tax hardship exemption process by eliminating the current requirement that sole proprietorships who have claimed the exemption file with the City a statement of financial hardship with supporting evidence by November 30 of the following year.**

(Finance) CEQA: Not a Project.

(This item renumbered from 2.14).

3.9 (Cont'd.)

Documents Filed: Memorandum from Director of Finance Johnson, dated June 9, 2006, recommending: Council approval of an ordinance authorizing the Director of Finance to administer a business tax amnesty program, approval of an ordinance authorizing a Business Improvement District Assessment Amnesty Program for the Downtown, Japantown, and Willow Glen Business Improvement Districts concurrent with the Business Tax Amnesty Program; and approval of an ordinance amending Section 4.76.345 of Chapter 4.76 of Title 4 of the San José Municipal Code simplifying the business tax hardship exemption process.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, and unanimously carried, [Ordinance No. 27788](#), entitled: “An Ordinance of the City of San José to Provide for a Business Tax Amnesty Program Which Forgives Taxpayers Who Pay Certain Past Due Business Taxes From Liability for Remaining Past Due Business Taxes, Interest, and Civil and Criminal Penalties”; [Ordinance No. 27789](#), entitled: “An Ordinance of the City of San José to Provide for a Business Improvement District Assessment Amnesty Program Which Forgives Businesses Who Pay Certain Past Due Assessments From Liability for Interest and Penalties”; and [Ordinance No. 27790](#), entitled: “An Ordinance of the City of San José Amending Section 4.76.345 of Chapter 4.76 of Title 4 of the San José Municipal Code to Simplify the Business Tax Hardship Exemption Process by Eliminating the Requirement that Sole Proprietors Who Have Claimed the Exemption File with the City a Statement of Financial Hardship with Supporting Evidence by November 30 of the Following Year”, were passed for publication. (10-0-1). Absent: Chirco.

COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Conduct Public Hearings to approve Business Improvement District Assessments for FY2006-2007:

- (a) Adoption of a resolution to approve the Hotel Business Improvement District budget report for Fiscal Year 2006-2007, as filed or as modified by the Council, and to levy the Hotel BID assessments for 2006-07. CEQA: Exempt, PP03-05-165. Citywide. (Economic Development)
- (b) Adoption of a resolution to approve the Japantown Business Improvement District budget report for Fiscal Year 2006-2007, as filed or as modified by the Council, and to levy the Japantown BID assessments for 2006-07. CEQA: Exempt, PP03-05-165. Council District 3. SNI: 13th Street. (Economic Development)
- (c) Adoption of a resolution to approve the Willow Glen Business Improvement District budget report for Fiscal Year 2006-2007, as filed or as modified by Council and to levy the Willow Glen BID assessment for 2006-07. CEQA: Exempt, PP03-05-165. Council District 6. (Economic Development)
- (d) Adoption of a resolution to approve the Downtown Business Improvement District budget report for Fiscal Year 2006-2007, as filed or as modified by Council and to levy the Downtown BID assessment for 2006-07. CEQA: Exempt, PP03-05-165. Council District 3. SNI: St. James Square, University, Delmas Park, Burbank, DelMonte. (Economic Development)

4.3 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Economic Development Krutko, dated May 26, 2006, recommending Council adoption of a resolution to approve the Hotel Business Improvement District budget report for fiscal year 2006-2007, as filed or modified by Council, and to levy the Hotel BID assessments for 2006-2007; (2) Memorandum from Director of Economic Development Krutko, dated May 26, 2006, recommending Council adoption of a resolution to approve the Japantown Business Improvement District budget report for fiscal year 2006-2007, as filed or modified by Council, and to levy the Hotel BID assessments for 2006-2007; (3) Memorandum from Director of Economic Development Krutko, dated May 26, 2006, recommending Council adoption of a resolution to approve the Willow Glen Business Improvement District budget report for fiscal year 2006-2007, as filed or modified by Council, and to levy the Hotel BID assessments for 2006-2007; and (4) Memorandum from Director of Economic Development Krutko, dated May 30, 2006, recommending Council adoption of a resolution to approve the Downtown Business Improvement District budget report for fiscal year 2006-2007, as filed or modified by Council, and to levy the Hotel BID assessments for 2006-2007.

Public Hearing: Mayor Gonzales opened the public hearing. There was no testimony.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, the public hearing was closed, and the actions necessary to levy the Business Improvement District Assessments for FY2006-2007 for the Hotel Business Improvement District, the Japantown Business Improvement District, the Willow Glen Business Improvement District, and the Downtown Business Improvement District, were approved, and [Resolution No. 73247](#), entitled: “A Resolution of the Council of the City of San José Approving the Budget Report of the Hotel Business Improvement District for Fiscal Year 2006-2007 and Levying Assessments in the Bid for Fiscal Year 2006-2007”; [Resolution No. 73248](#), entitled: “A Resolution of the Council of the City of San José Approving the Budget Report of the Japantown Business Improvement District for Fiscal Year 2006-2007 and Levying Assessments in the Bid for Fiscal Year 2006-2007”; [Resolution No. 73249](#), “A Resolution of the Council of the City of San José Approving the Budget Report of the Willow Glen Business Improvement District for Fiscal Year 2006-2007 and Levying Increased Assessments in the Bid for Fiscal Year 2006-2007”; and [Resolution No. 73250](#), “A Resolution of the Council of the City of San José Approving the Budget Report of the Downtown Business Improvement District for Fiscal Year 2006-2007 and Levying Assessments in the Bid for Fiscal Year 2006-2007”, were adopted. (10-0-1). Absent: Chirco.

4.4 **Approval of a Memorandum of Understanding between the City of San José and San José State University for the development of a joint plan to determine appropriate land uses and shared opportunities in the South Campus Area encompassing publicly owned land generally bounded by Highway 280, Roberts Avenue, Phelan Avenue, and 6th Street, Humboldt Street. CEQA: Not a Project. Council Districts 3 and 7. SNI: Spartan-Keyes. (Planning, Building and Code Enforcement)**

4.4 (Cont'd.)

Documents Filed: Supplemental memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated June 9, 2006, which replaces the memorandum dated May 24, 2006, and transmitting a completed memorandum of Understanding between the City of San José and San José State University for development of a joint plan to determine appropriate land uses and share opportunities in the South Campus Area.

Council discussion ensued.

Motion: Vice Mayor Chavez moved approval of the Memorandum of Understanding, with direction to Staff as stated in the action below, and as requested by Council Members LeZotte and Nguyen. Council Member Williams seconded the motion.

Council Member Yeager recused himself due to conflict of interest based upon previous employment by San José State University.

Action: On a call for the question, the motion carried unanimously, and the Memorandum of Understanding was approved, with Staff directed to: (1) Bring back an evaluation of land in the area that is contiguous to the plan area in its current or future use; (2) Ensure that all planning items are imbedded in the final documents; (3) Include in the deliverables, funds available at the State and Federal level; and (4) Include in the outreach, the Wellness Center, Disability Advisory Commission, Senior Commission, the Regional Center and the Singleton Sports Complex. (9-0-1-1. Absent: Chirco. Disqualified: Yeager.)

4.5 **Approval of an ordinance amending to extend the time of an existing pilot program from the end of July to October 31, 2006, to allow Sidewalk Café Permits to be used during this time period to businesses that serve alcohol and have a public entertainment permit. CEQA: Exempt, PP05-099. (Planning, Building and Code Enforcement/City Attorney's Office)**

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated June 19, 2006, transmitting Planning Staff recommendation for Council adoption of a proposed ordinance to extend the time period of an existing sidewalk café permit pilot program to businesses that serve alcohol and have a public entertainment permit.

Action: Upon motion by Council Member Pyle, seconded by Council Member Yeager and carried unanimously, [Ordinance No. 27791](#), entitled: "An Ordinance of the City of San José to Extend an Existing Pilot Program Allowing Sidewalk Café Permits in Conjunction with a Public Entertainment Permit and Alcohol Sales to, Through and Including October 31, 2006", was passed for publication. (10-0-1). Absent: Chirco.

NEIGHBORHOOD SERVICES

5.1 Report of the All Children Achieve Committee – June 8, 2006 Council Member Yeager, Chair

Documents filed: The All Children Achieve Committee Report, dated June 8, 2006.

- (a) Annual Update on Library Services for Youth. Attachment: Memorandum from Library Director Jane Light, dated May 25, 2006, recommending acceptance of the annual report and transmitting annual update on Library Services for Youth.

The Committee accepted the staff report.

- (b) Update on San José After School Program and Proposition 49. Attachment: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Balagso, dated May 25, 2006, providing an update on Proposition 49. (Deferred from April 13, 2006)

The Committee accepted the staff report.

- (c) Update on Implementation of San José High School Initiative. Attachment: Memorandum from Mayor Gonzales, dated June 5, 2006, stating that a Power Point presentation will be given at the next Committee meeting to provide an update on the Mayor's Office ongoing activities surrounding this initiative. (Deferred from April 13, 2006)

The Committee accepted the staff report.

- (d) Update on San José BEST. Attachment: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Balagso, dated May 25, 2006, recommending acceptance of the summary report on the San José B.E.S.T. Cycle 15 Mid-Year Evaluation.

The Committee accepted the staff report.

- (e) Update on Youth Services Priorities
(Deferred to November 2006).

Discussion on Parks, Recreation and Neighborhood Services Multi-Service Delivery Hub Model Impact on Schools. Attachment: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Balagso, dated May 26, 2006, transmitting an update on the impact associated with PRNS multi-service delivery system and introducing a new program at Solari Community Center entitled "Kids at Hope".

The Committee accepted the staff report.

**5.1 Report of the All Children Achieve Committee – June 8, 2006 (Cont'd.)
Council Member Yeager, Chair**

- (g) Oral Petitions - There were none.
- (h) Adjournment - The meeting was adjourned at 3:35 p.m.

Action: Upon motion by Council Member Yeager, seconded by Council Member Pyle, and unanimously carried, the All Children Achieve Committee Report and the Actions of June 8, 2006, were accepted. (10-0-1) Absent: Chirco.

TRANSPORTATION & AVIATION SERVICES

**6.1 Report of the Building Better Transportation Committee – June 5, 2006
Council Member Campos, Chair**

Documents filed: The Building Better Transportation Committed Report, dated June 5, 2006.

- (a) Expansion and Improvement of Transit and Transportation Systems
 - (1) Progress Report on BART to Silicon Valley Project. Attachment: Memorandum from Director of Transportation Helmer dated May 23, 2006, requesting acceptance of status report on BART extension to San José/Silicon Valley.

The Committee accepted the staff report.

- (2) Recommendation on Preferred Alternative for Santa Clara/Alum Rock Transit Corridor. Attachment: Memorandum from Director of Transportation Helmer dated May 23, 2006, requesting acceptance of status report on Santa Clara/Alum Rock Transit Corridor project.

The Committee accepted the staff report.

- (b) Traffic Relief/Safe Streets
 - (1) Caltrans Director's Report. Attachment: Memorandum from Director of Transportation Helmer dated May 22, 2006, requesting the Committee receive a presentation from Bijan Sartipi with the State Department of Transportation (Caltrans) regarding regional transportation issues.

The Committee accepted the staff report.

**6.1 Report of the Building Better Transportation Committee – June 5, 2006 (Cont'd.)
Council Member Campos, Chair**

- (b) Traffic Relief/Safe Streets (Cont'd.)
 - (2) Update on Automated Red Light Photo Enforcement Systems. Attachment: Memorandum from Director of Transportation Helmer and Police Chief Davis dated May 25, 2006, recommending acceptance of an informational report on Automated Red Light Photo Enforcement Systems.

The Committee accepted the staff report.

- (c) Supporting Smart Growth - There were no items.
- (d) Regional Relationships/Funding/Policy
 - (1) Status Report on Taxi Program. Attachment: Memorandum from Director of Transportation Helmer, Director of Aviation Sherry, and Police Chief Davis dated May 25, 2006, recommending acceptance of the Taxicab Service Model Status Report and requesting the Committee recommend to Council the approval of the Methodology for Taxicab Rate Adjustments.

The Committee accepted the staff report. See Item 6.6 for Council Action taken.

- (2) Update Report on Regional and Local Litter Reduction Programs. Attachment: Memorandum from Director of Transportation Helmer and Acting Director of Parks, Recreation and Neighborhood Services Balagso dated May 25, 2006, recommending acceptance of the status report on regional and local litter reduction pilot programs on local freeways.

The Committee accepted the staff report.

- (e) Oral Petitions - Bill Chew mentioned his candidacy for District 3.
- (f) Adjournment - The meeting was adjourned at 3:18 p.m.

Action: Upon motion by Council Member Campos, seconded by Vice Mayor Chavez, and unanimously carried, the Building Better Transportation Committee Report and the Actions of June 5, 2006, were accepted. (10-0-1) Absent: Chirco.

- 6.2 Adoption of a resolution authorizing the City Manager to submit applications to the Federal Aviation Administration (FAA) to impose and use Passenger Facility Charges (PFC's) for the Terminal B Building: North Concourse Project in the amount of \$495,095,000; to amend various approved PFC projects by more than 25% of the original approved amounts with increase in the total cost of \$17,589,612; and, to amend various completed PFC projects to reflect savings and to decrease the originally approved amount by \$11,073,000, for a net increase in the total PFC authority in the amount of \$501,611,612. CEQA: Resolution Nos. 67380 and 71451, PP 06-086. (Airport)**

Document filed: Memorandum from Director of Aviation Sherry, dated June 5, 2006, recommending Council adoption of a resolution authorizing the City Manager to submit applications to the Federal Aviation Administration (FAA) to impose and use Passenger Facility Charges (PFC's) for various projects at Norman Y. Mineta San José International Airport.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Chavez, and unanimously carried, [Resolution No. 73251](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Submit Applications to the Federal Aviation Administration to Impose and Use Passenger Facility Charges for the Terminal B Building: North Concourse Project in the Amount of \$495,095,000 to Amend Various Approved PFC Projects by more than 25% of the Original Approved Amounts and to Amend Various Completed PFC Projects to Decrease the Originally Approved Amount, for a Net Increase in the Total PFC Authority in the Amount of \$501,611,612", was adopted. (10-0-1). Absent: Chirco.

6.3 Approval of actions related to the expansion of the Airport Commercial paper Program

- (a) Hold a Tax Equity and Fiscal Responsibility Act hearing for the issuance of Series B Alternative Minimum Tax (AMT) commercial paper notes under the commercial paper program established for the Norman Y. Mineta San José International Airport with a limit of \$200,000,000 in order to fund projects and capitalized interest associated with the implementation of the Airport Master Plan.**
- (b) Adoption of a resolution amending Resolution No. 69200 to authorize issuance of a combination of Series A, Series B, and Series C commercial paper notes under the commercial paper program established for the Norman Y. Mineta San José International Airport through an increase in the aggregate limit from \$100,000,000 to \$200,000,000 in order to fund projects and capitalized interest associated with the Airport Master Plan and the payment of costs related to the Airport's lease of the former FMC property.**

- 6.3 (c) Adoption of a resolution authorizing the Director of Finance to negotiate and execute the First Amendment to the Letter of Credit and Reimbursement Agreement between the City of San José and Morgan Guaranty Trust Company of New York, now JPMorgan Chase Bank, relating to the Norman Y. Mineta San José Airport International Subordinated Commercial Paper Program, increasing the maximum stated amount from \$100,000,000 to \$200,000,000 and increasing the Maximum Series C Letter of Credit Stated Amount from \$15,000,000 to \$35,000,000.**
CEQA: Resolution Nos. 67380 and 71451, PP 06-084. (Airport/Finance)

Documents Filed: Memorandum from Finance Director Johnson and Director of Aviation Sherry, dated May 30, 2006, recommending Council approve issuance of commercial paper notes and approval of resolutions as specified.

Mayor Gonzales opened the TEFRA Hearing and there was no discussion from the floor. Mayor Gonzales closed the TEFRA hearing.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, [Resolution No. 73252](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 69200 to Authorize Issuance of a Combination of Series A, Series B, and Series C Commercial Paper Notes Under the Commercial Paper Program Established for the Norman Y. Mineta San José International Airport Through an Increase in the Aggregate Limit from \$100 Million to \$200 Million in Order to Fund Projects and Capitalized Interest Associated with the Airport Master Plan and the Payment of Costs Related to the Lease of the Former FMC Property; and Delegating to the Director of Finance and Other Officers of the City Authorization to Establish Terms and Conditions for the Issuance and Payment of Said Notes, and to Execute Said Documents and to Take Other Necessary Actions and to Prepare, Execute and Deliver Other Necessary Documents in Connection Therewith”; [Resolution No. 73253](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute the First Amendment to the Letter of Credit and Reimbursement Agreement Between the City of San José and Morgan Guaranty Trust Company of New York, Now JPMorgan Chase Bank, Relating to the Norman Y Mineta San José Airport International Subordinated Commercial Paper Program, Increasing the Maximum Stated Amount from \$100 Million to \$200 Million and Increasing the Maximum Series C Letter of Credit Stated Amount from \$15 Million to \$35 Million”, were adopted. (10-0-1). Absent: Chirco.

- 6.4 Report on bids and award of contract for the Norman Y. Mineta San José International Airport North Concourse Building Structural Steel (Package 2C) Project to the low bidder, Gayle Manufacturing Company in the amount of \$13,978,000, and approval of a contingency in the amount of \$1,397,800. CEQA: Resolution Nos. 67380 and 71451, PP 06-032. (Airport/Public Works)**

6.4 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works Allen and Director of Aviation Sherry, dated May 30, 2006, recommending Council accept the bid report and award of contract for the Norman Y. Mineta San José International Airport North Concourse Building Structural Steel (Package 2C) Project to the low bidder, Gayle Manufacturing Company.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, the award of said contract to the low bidder, Gayle Manufacturing Company, with specified contingency, was approved. (10-0-1) Absent: Chirco.

6.5 **Approval of actions related to the Airport Air Operations Area Fence Replacement Project.**

- (a) **Report on bids and award of contract for the Airport Operations Area (AOA) Fence Replacement Project at Norman Y. Mineta San José International Airport to the sole bidder, R & L Brosamer, with a bid of 21% Overhead and Profit, in an amount not to exceed \$600,000.**
- (b) **Adoption of the following appropriation ordinance amendments in the Airport Capital Improvement Fund:**
 - (1) **Establish the Airport Operations Area Fence Replacement appropriation in the amount of \$493,000.**
 - (2) **Decrease the Ending Fund Balance by \$493,000.**
- (c) **Adoption of the following appropriation ordinance amendments in the Airport Renewal and Replacement Fund:**
 - (1) **Establish the Airport Operations Area Fence Replacement appropriation in the amount of \$108,000.**
 - (2) **Decrease the Sign Production Vendor appropriation by \$100,000.**
 - (3) **Decrease the Terminal Building Modifications appropriation by \$8,000.**

CEQA: Resolution Nos. 67380 and 71451, PP 06-104. (Public Works/Airport/City Manager's Office)

Documents filed: (1) Memorandum from Director of Public Works Allen, dated May 30, 2006, reporting on bids and recommending Council approve the appropriate action based on evaluation of bids; and (2) Supplemental memorandum from Director of Public Works Allen, Director of Aviation Sherry, and Budget Director Lisenbee, dated June 15, 2006, recommending award of contract for the Airport Operations Area (AOA) Fence Replacement Project to the sole bidder, R & L Brosamer, and adoption of Appropriation Ordinance amendments.

6.5 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, the award of said contract to the sole bidder, R & L Brosamer, was approved; [Ordinance No. 27792](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Airport Capital Improvement Fund for the Airport Operations Area Fence Replacement; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”; and [Ordinance No. 27793](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Airport Renewal and Replacement Fund for the Airport Operations Area Fence Replacement; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (10-0-1). Absent: Chirco.

6.6 **Approval of the methodology for the future adjustment of taxicab meter rates in the City of San José. CEQA: Not a Project. (Transportation)** **[Building Better Transportation Committee 6/5/06 – Item 6.1(d)(1)]**

Documents Filed: Memorandum from Director of Transportation Helmer, dated June 13, 2006, recommending Council approval of the Methodology to Adjust Taxicab Meter Rate Adjustments.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and unanimously carried, the proposed Methodology to Adjust Taxicab Meter Rate Adjustments was approved. (10-0-1) Absent: Chirco.

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board was convened at 5:54 p.m. to consider Items 9.1, 9.2, 9.3, and 9.4 in a joint session.

9.1 Approval by the City Council of Fiscal Year 2006-2007 Sewer Service, Use Charges, and Storm Service Charges.

Adoption of a resolution:

- (a) **Setting Sewer Service and Use Charge rates for FY 2006-07 to reflect the following rate increases:**

Category	Increase
Single-Family Residential	4.49%
Multi-Family Residential	4.39%
Mobile Home	4.48%
Non-monitored commercial and industrial	2%-6%
Monitored industrial	average 3.83%

9.1 (b) Setting Storm Sewer Service Charges rates for FY 2006-07 to reflect the following proposed rate increases:

Category	% Increase
Residential	4.3%
Mobile Home	4.5%
Large Multi-Family	4.1%
Condominium	4.1%
Small Multi-Family	4.5%
Commercial, institutional, and industrial	Not to exceed 4.6%

CEQA: Not a Project. (Environmental Services)

Documents Filed: (1) Memorandum from Director Environmental Services Stufflebean, dated May 30, 2006, recommending Council adoption of resolutions raising Sewer Service and Use Charge rates and Storm Sewer Service Charge rates for FY 2006-2007; and (2) Supplemental memorandum from Director of Environmental Services Stufflebean, dated June 13, 2006, transmitting a revised Attachment A clearly identifying the actual rates proposed for the monitored industries.

Brief Council discussion ensued.

Public Comments: Ross Signorino expressed concerns about the impact on those on fixed incomes.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Chavez, and unanimously carried, [Resolution No. 73254](#), entitled: “A Resolution of the Council of the City of San José Setting Schedules of Sanitary Sewer Service and Use Charges and Storm Sewer Service Charges for Fiscal Year 2006-2007”, was adopted. (10-0-1). Absent: Chirco.

9.2 Adoption of a resolution increasing rates for Recycle Plus single-family services by 5% and multi-family services by 3%, effective August 1, 2006. CEQA: Not a Project. (Environmental Services)

Document filed: Memorandum from Director of Environmental Services Stufflebean, dated June 6, 2006, recommending Council adoption of a resolution increasing rates for Recycle Plus single-family and multi-family services.

Public Comments: Ross Signorino spoke on the issue.

Action: Upon motion by Council Member Pyle, seconded by Council Member LeZotte, and carried, [Resolution No. 73255](#), entitled: “Resolution of the Council of the City of San José Adopting Service Rates for the Recycle Plus Program Effective August 1, 2006 and Superseding Resolution No. 73083”, was adopted. (9-1-1). Noes: LeZotte. Absent: Chirco.

9.3 Adoption of a resolution revising the Commercial Solid Waste Collection Franchise Fee for services performed on or after August 1, 2006, as follows:

- (a) Increase the Franchise Fee from \$3.49 to \$3.67 per cubic yard for each uncompacted cubic yard of solid waste collected.
- (b) Increase the Franchise Fee from \$10.47 to \$11.01 per cubic yard for each compacted cubic yard of solid waste collected.
- (c) Adjust the Franchise Fee to \$61.17 per ton for each ton of solid waste collected by Green Team of San José in roll-off containers and compactors pursuant to the Agreement for Solid Waste Collection Services at City Facilities for which franchise fees are required to be charged by weight rather than volume.

CEQA: Not a Project. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services Stufflebean, dated June 6, 2006, recommending Council adoption of a resolution revising the Commercial Solid Waste Collection Franchise Fee effective August 1, 2006.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and unanimously carried, [Resolution No. 73256](#), entitled: “Resolution of the Council of the City of San José Setting Commercial Solid Waste Collection Franchise Fees for Services Performed on or After August 1, 2006”, was adopted. (10-0-1). Absent: Chirco.

9.4 Approval by the City Council to increase San José Municipal Water System Potable Water Rates

- (a) Adoption of a resolution increasing the San José Municipal Water System potable water rates by \$0.09 per hundred cubic foot or approximately 4.3% effective August 1, 2006, and repealing Resolution No. 72755.
- (b) Adoption of a resolution revising the rules and regulations applicable to water service provided by the San José Municipal Water System, and repealing Resolution No. 65821, to implement the Consolidated Utility Billing System, including the establishment on new billing due dates and late charges effective July 1, 2006.

CEQA: Not a Project. Council Districts 2, 4, 7 and 8. (Environmental Services)

Documents filed: (1) Memorandum from Environmental Services Director Stufflebean, dated May 30, 2006, recommending Council adoption of resolutions increasing the San José Municipal Water System potable water rates and revising the rules and regulations applicable to water service to implement the Consolidated Utility Billing System; and (2) Proof of publication of Notice of Public Hearing on Potable (Drinking) Water Rate Increase for the San José Municipal Water System, dated May 25, 2006, submitted by the City Clerk.

Public Comments: Ross Signorino spoke to the issue.

9.4 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and unanimously carried, [Resolution No. 73257](#), entitled: “A Resolution of the Council of the City of San José to Establish New Quantity Charges for Potable Water Service Effective August 1, 2006”; and [Resolution No. 73258](#), entitled: “A Resolution of the Council of the City of San José Establishing Rules and Regulations for Operation of the Municipal Water System and Establishing Rates for Water Service, and Repealing Resolution No. 65821”, were adopted. (10-0-1). Absent: Chirco.

The Redevelopment Agency Board portion of the meeting adjourned at 6:05 p.m.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>		<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9801	360 S. Market Street		3	Mesa Sofa Partners LLC	1 Lot/ 203 Units	Multi Family	Approve
9796	88 E. San Fernando Street		3	Block 3 Development Partners LLC	1 Lot/ 213 Units	Multi Family	Approve

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>		<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9831	S/W corner of Monterey Road and Goble Lane		7	ROEM	102 Lots/ 660 Units	MF/SF

RECESS/RECONVENE

The Council of the City of San José recessed at 6:06 p.m. and reconvened at 7:02 p.m. in an evening session.

Present: Council Members: Campos, Chavez, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members: Chirco (Excused).

City Clerk Price read the requests for continuances of applications and other actions as recommended. Upon motion by Council Member Chavez, seconded by Council Member Yeager, and unanimously carried, the below noted continuances were granted. (10-0-1)
Absent: Chirco.

- 1.1 Presentation of commendations to Ana Stevenson, Tropicana Merchants Association and Telemundo 48 as recipients of the Community Partners Award from the Latino College Preparatory Academy at National Hispanic University for their decided support and leadership. (Nguyen)**
(Rules Committee referral 6/7/06)
(Heard in the evening).

Action: Mayor Gonzales and Council Member Nguyen recognized and commended Ana Stevenson, Tropicana Merchants Association and Telemundo 48 as recipients of the Community Partners Award from the Latino College Preparatory Academy at National Hispanic University.

- 1.4 Presentation of a commendation to the members of the Evergreen Valley Church for their active and positive involvement in the community and their work during their Mississippi Mission Trip. (Cortese)**
(Rules Committee referral 6/14/06)
(Heard in the evening).

Action: Mayor Gonzales and Council Member Cortese recognized and commended the members of Evergreen Valley Church for their excellent community service.

NEIGHBORHOOD SERVICES

5.2 Approval of actions related to the Park Trust Fund

- (a) Acceptance of report on Review of the Park Trust Fund.**
- (b) Adoption of the following appropriation ordinance amendments in the Park Trust Fund (Fund 375):**
 - (1) Establish a PDO/PIO Fee Refund appropriation to the Department of Parks, Recreation and Neighborhood Services in the amount of \$415,000 for the refund of uncommitted PDO/PIO fees and interest to known property owners.**
 - (2) Establish a Park Trust Fund Administration appropriation to the Department of Parks, Recreation and Neighborhood Services in the amount of \$20,000 for a review of the draft administrative policies and procedures for the administration of the Park Trust Fund by the City's external auditor Macias, Gini & Co. LLP.**
 - (3) Decrease the appropriation for the Future PDO/PIO Reserve by \$435,000.**

CEQA: Not a Project. (City Manager's Office/Finance/Parks, Recreation and Neighborhood Services)

(Deferred from 5/2/06 – Item 5.2)

(Heard in the evening).

Documents Filed: (1) Memorandum from Acting Director of Parks, Recreation and Neighborhood Services, Finance Director Johnson, and Budget Director Lisenbee, dated May 30, 2006, recommending Council adoption of appropriation ordinance amendments relative to the Park Trust Fund (Fund 375); (2) Correspondence from Helen Chapman, Parks and Recreation Commission Chair, dated June 9, 2006, transmitting the Parks and Recreation Commission recommendation to Council for approval of the Park Trust Fund Reconciliation Report; (3) Correspondence from Dale Osborn, President of the Berryessa Citizens Advisory Council, dated June 9, 2006, stating their concurrence with Citizens for a Livable San Jose (CALSJ) stance in support of the Park Trust fund Reconciliation Report; (4) Correspondence from Kerri Hamilton, dated June 9, 2006, recommending approval of the subject report; (5) Correspondence from Randi Kinman, President of Burbank/Del Monte Neighborhood Advisory Committee (NAC) dated June 16, 2006, supporting acceptance of the Park Trust Fund reconciliation report; and (6) Correspondence from Home Builders Association dated June 15, 2006, urging the Council not to accept the Staff recommendations relative to disposition of the funds identified in the Park Trust review; (7) Correspondence from the Coalition for Jobs Now (CFJN) dated April 21, 2006, urging Council to delay any discussion and action on proposed changes to the Park Impact Fees paid by the development community until additional information is presented on the issue; (8) Correspondence from the Citizens For a Livable San José (CALSJ) dated June 15, 2006, requesting that the Park Trust Fund Reconciliation Report as prepared by Staff, approved by PRNS and Planning Commission, be brought forward at the earliest time possible; (9) Hard copy of PRNS staff slide presentation entitled, Review of the Park Trust Fund, dated June 20, 2006; and (10) Approximately 100 signed constituent postcards in support of the acceptance of the Park Trust Fund reconciliation report.

5.2 (Cont'd.)

Albert Balagos, Acting Director of the Department of Parks, Recreation and staff presented a review of the Park Trust Fund.

Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso and Deputy Director Julie Mark responded to Council questions and comments. .

Public Comments: The following individuals spoke in support of the proposed actions: Helen Chapman (Chair of the City of San José Parks and Recreation Commission); Pete Furman and Kathryn Mathewson (Citizens for a Livable San José (CALSJ); Randi Kinman and Robert Silij (CALSJ & Burbank/Del Monte NAC); Kathy Sutherland, Lisa Jensen, Kirk Vantan; Dave Parent (Metcalf Park HMA), and Keri Hamilton (Berryessa Citizens Advisory Council- CALSJ).

Speaking with opposing or neutral positions were: Pat Sausedo (NAIOP); Bob Hines (San José Silicon Valley Chamber of Commerce; Beverly Bryant (Home Builders Association of Northern California); and Scott Soper.

Motion: Vice Mayor Chavez moved approval of the proposed actions related to the Park Trust Fund, with additional direction to Staff as detailed in the action listed below. Council Member Yeager seconded the motion.

Action: On a call for the question, the motion carried unanimously, the Review of the Park Trust Fund report was accepted, and [Ordinance No. 27794](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Moneys in the Subdivision Park Trust Fund for the Parkland Dedication Ordinance and the Park Impact Ordinance Fee Refund and Park Trust Fund Administration; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted, and Staff was directed to: (1) Host and notice stakeholder meetings before September 2006; (2) Return in September with a menu of options about how to increase opportunities to have more parkland available and sooner; (3) Move forward with the park dedication fees and update the greenprint concurrently. (10-0-1). Absent: Chirco

GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

10.1 Tentative approval of General Plan Consent Calendar items.

- (a) Tentative approval for proposal to General Plan Amendment request to change the Land Use/Transportation Diagram designation from Medium Density Residential (8-16 DU/AC) to Neighborhood/Community Commercial on an approximately 0.6-acre site on the east side of South King Road, approximately 300 feet northerly of East San Antonio Street (150 South King Road). (Toan & Tammy Nguyen, Owner/Erik Schoennauer, Applicant). Council District 5. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval. SNI: Mayfair. CEQA: Mitigated Negative Declaration.
GP05-05-01 – District 5
- (b) Tentative approval for General Plan Amendment request to change the Land Use/Transportation Diagram designation from Industrial Park to Combined Industrial/Commercial on an approximately 4.4-acre site located on the southeasterly side of Silver Creek Valley Road and the south terminus of Fontanoso Way (5976 Silver Creek Valley Road) (WTA Silver Creek, LLC, Owner/ Shamrock Investments, Applicant). Council District 2. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1; Platten Absent). CEQA: EIR Resolution and Addendum thereto.
GP06-02-01 – District 2
- (c) Tentative approval for General Plan Text Amendment request to amend the *San José 2020 General Plan* Text related to Single-Room Occupancy Living Units and Single-Room Occupancy Residential Hotels (SROs) to align more closely with references to SROs in the General Plan Housing Element and other adopted City policy documents and ordinances. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval. CEQA: Resolution No. 65459.
GP06-T-02 – District Citywide
- (d) Tentative approval for General Plan Text Amendment request and revision to City Council Policy 4-2 *Streetlight Conversion* to allow up to 300 high pressure sodium lights along designated Neighborhood Business Districts and public streets identified as Pedestrian Corridors in adopted Neighborhood Improvement Plans completed for the Strong Neighborhoods Initiative (SNI) Redevelopment Project Area. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval. CEQA: Mitigated Negative Declaration.
GP06-T-03 – District Citywide

10.1 (Cont'd.)

Documents filed: (1) Memorandum from Acting Director of Planning, Building, and Code Enforcement Horwedel, dated June 1, 2006, transmitting the Staff Report on Project File Number GP05-05-01, dated May 30, 2006, recommending Council approval of the General Plan amendment to change the Land Use/Transportation Diagram designation from Medium Density Residential to Neighborhood/Community Commercial; (2) Memorandum from Planning Commission Secretary Horwedel, dated June 5, 2006, transmitting the Planning Commission's recommendation to Council for approval of the General Plan Amendment for GP05-05-01; (3) Department of Planning, Building, and Code Enforcement Staff Report on Project File Number GP06-02-01, dated May 17, 2006, recommending to Council for approval of the General Plan amendment request to change the Land Use/Transportation Diagram designation from Industrial Park to Combined Industrial/Commercial; (4) Memorandum from Planning Commission Secretary Horwedel, dated May 30, 2006, transmitting the Planning Commission's recommendation to Council for approval of the General Plan Amendment for GP06-02-01; (5) Memorandum from Acting Director of Planning, Building, and Code Enforcement Horwedel, dated June 1, 2006, transmitting the Staff Report on Project File Number GP06-T-02, dated May 31, 2006, recommending to Council for approval of the General Plan text amendment referencing Chapter IV, Goals and Policies, page 83, and Chapter V, Land Use/Transportation Diagram, pages 153 and 228; (6) Memorandum from Planning Commission Secretary Horwedel, dated June 5, 2006, transmitting the Planning Commission's recommendation to Council for approval of the General Plan Text Amendment relating to Single-Room Occupancy Living Units and Single-Room Occupancy Residential Hotels (SROs); and (7) Proof of publication of Notice of Public Hearing, executed on May 26, 2006, submitted by the City Clerk.

Mayor Gonzales opened the Public Hearing and there was no testimony from the floor. Mayor Gonzales closed the Public Hearing.

Action: Upon motion by Council Member Cortese, seconded by Vice Mayor Chavez, and unanimously carried, and the recommendations of the Staff and Planning Commission for Items 10.1(a), 10.1(b), and 10.1(c) were tentatively approved, with Item 10.1(d) continued to the next General Plan cycle. (10-0-1) Absent: Chirco.

END OF GENERAL PLAN CONSENT CALENDAR

GENERAL PLAN PUBLIC HEARINGS

10.2 Amendment for property located generally at the northeasterly quadrant of the intersection of Piercy Road and Tennant Avenue (715 Piercy Road) on a southerly 9.7-acre portion of a 14.3-acre parcel. Council District 2. CEQA: Mitigated Negative Declaration.

- (a) **Proposal to modify the City's Greenline/Urban Growth Boundary (UGB) to include approximately 4.75 acres of unincorporated territory located generally at the northeasterly quadrant of the intersection of Piercy Road and Tennant Avenue (715 Piercy Road). Director of Planning, Building and Code Enforcement recommends approval and Planning Commission recommends denial (6-0-0).**

UGB05-001 – District 2

- (b) **Tentative approval for General Plan amendment and Urban Service Area (USA) expansion request to change the General Plan land use designation from Non-Urban Hillside on approximately 9.7 acres to Medium Low Density Residential (8 dwelling units per acre) on approximately 8.4 acres, Private Open Space on approximately 1.29 acres, and inclusion of approximately 4.75 acres within the City's Urban Service Area. Director of Planning, Building and Code Enforcement recommends approval of Low Density Residential (5 dwelling units per acre) and Planning Commission recommends denial (6-0-0).**

GP05-02-04 – District 2

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated June 1, 2006, transmitting the Planning Staff Report on Project #UGB05-001/GP05-02-04 recommending Council approval of the proposed modification to the City's Greenline/Urban Growth Boundary (UGB) and change of the Land Use/Transportation Diagram designation from Non-Urban Hillside to Low Density Residential (5 DU/AC on approximately 8.4 acres, Private Open Space on approximately 1.29 acres, and inclusion of approximately 4.75 acres within the City's Urban Service Area for said project; (2) Memorandum from Planning Commission Secretary Horwedel, dated June 7, 2006, transmitting the Planning Commission's recommendation to Council for denial of both General Plan Amendments; and (3) Memorandum from Council Member Williams, dated June 20, 2006, recommending that the General Plan be amended for this project to Medium Low Density Residential (8 DU/AC) on 8.4 acres, with 1.29 acres designated open space, inclusion of approximately 4.75 acres within the Greenline/Urban Growth boundary, and inclusion of approximately 4.75 acres within the Urban Service Area boundary.

Mayor Gonzales opened the public hearing. Max Keech, representing the applicant, gave a brief presentation of the requested amendment. Mayor Gonzales closed the public hearing.

Motion: Council Member Williams moved approval of his memorandum, with General Plan amendment recommendations as contained therein and referenced above. Council Member Pyle seconded the motion.

10.2 (Cont'd.)

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle, and the applicant's request to: (a) Modify the City's Greenline/Urban Growth Boundary (UGB) to include approximately 4.75 acres of unincorporated territory; and (b) Approve a General Plan amendment and Urban Service Area (USA) expansion request to change the General Plan Land Use Designation from Non-Urban Hillside on approximately 9.7 acres to Medium Low Density Residential (8 dwelling units per acre) on approximately 8.4 acres, Private Open Space on approximately 1.29 acres, and inclusion of approximately 4.75 acres within the City's Urban Service Area, was tentatively approved. (7-2-1. Noes: Chavez, LeZotte. Absent: Chirco.)

10.3 **Tentative approval for General Plan amendment request to change the Land Use/Transportation Diagram designation from Light Industrial to High Density Residential on approximately 4.6 acres of a 5.13-acre parcel (0.53 acres are in the City of Santa Clara) on the north side of Campbell Avenue, approximately 2,000 feet northwesterly of Newhall Street (1270 Campbell Avenue). (Si Xiv, Owner/Sobrato Development-Tim Steele, Applicant). Council District 3. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (4-2-0; Levy and Zito Opposed). CEQA: Mitigated Negative Declaration. GP05-03-02 – District 3**

Documents Filed: (1) Memorandum from Acting Planning, Building and Code Enforcement Director Horwedel, dated June 1, 2006, transmitting the Planning Staff Report on Project #GP05-03-02 recommending Council approval of a General Plan Amendment Land Use/Transportation Diagram designation from Light Industrial to High Density Residential; (2) Memorandum from Planning Commission Secretary Horwedel, dated June 5, 2006, transmitting the Planning Commission's recommendation for approval of the General Plan Amendment for stated project; and (3) Memorandum from Vice Mayor Chavez and Council Member Yeager, dated June 20, 2006, recommending Council approve the a General Plan Amendment Land Use/Transportation Diagram designation (a) to High Density Residential (25-50 DU/AC) on GP05-03-02, and (b) Medium High Density Residential (12-25 DU/AC) on GP05-06-04, with the addition of the specified directions noted in their joint memorandum, as follows: (i) Develop density and unit counts during the zoning and permitting phases that consider and reflect the constraints presented by the limited access to Campbell Avenue (The Council has no intent to remove the street closures at the southern terminus of Campbell Avenue at O'Brien Court); (ii) Develop parking standards during the Zoning phase that reflect the limited off-site parking options; (iii) Develop appropriate development standards at the Zoning and permitting phases to ensure an appropriate interface between the new development along Campbell Avenue and the existing homes along Sherwood Avenue and O'Brien Court); (iv) Work with the community and the applicant of pending housing development applications to address the park need in the Newhall neighborhood in

10.3 (Cont'd.)

conjunction with the community outreach required as part of the zoning application process; and (v) Continue the initial work with the City of Santa Clara and the Valley Transportation Authority on the Santa Clara State Area Plan and expand the stakeholder outreach to actively include representatives of the Newhall Neighborhood Association in the planning process.

Note: Items No. 10.3 and 10.4 were heard together.

Public Comments: Mayor Gonzales opened the Public Hearing and the following individuals addressed the Council in opposition to the proposed actions: Dr. M. J. Dunbar, John Urban and Joanne Curme of the Newhall Neighborhood Association; and Craig Iverson. (See Item 10.4 for public comments on GP05-06-04).

The applicant spoke in support of his request.

Council discussion followed.

Motion: Council Member Yeager moved approval of his joint memorandum with Vice Mayor Chavez, which recommended approval of the General Plan amendment request, with additional direction to the Staff, as described in the action below. Vice Mayor Chavez seconded the motion.

Action: On a call for the question, the motion carried unanimously, the public hearing was closed, the requested amendments to the General Plan Land Use/Transportation Diagram designation were tentatively approved: on GP05-03-02 (Item 10.3) the designation was changed to High Density Residential on approximately 4.6 acres of a 5.13-acre parcel (0.53 acres are in the City of Santa Clara) on the north side of Campbell Avenue; and on GP05-06-04 (Item 10.4) the designation was changed to Medium High Density Residential (12-25 DU/AC) on an approximately 2.67-acre site located on the south side of Campbell Avenue; with the addition direction to Staff contained in the memorandum and listed above, and with the additional directed given at the City Council meeting, that Staff: (1) Research the possibility of vacating the street by the two street closures; (2) Look at ways to increase capacity of the intersection at The Alameda and Campbell Avenue; and (3) As part of the vacation study follow up, research if it makes sense to expand the park as a stand alone item (Pulte Project). (9-0-2) Absent: Chirco; Cortese.

- 10.4 Tentative approval for General Plan amendment request to change the Land Use/Transportation Diagram designation from Light Industrial to Medium High Density Residential (12-25 DU/AC) on an approximately 2.67-acre site located on the south side of Campbell Avenue, approximately 850 feet westerly of Newhall Street (1179-1181 Campbell Avenue). (Cobalt Associates, Owner/Santa Clara Development Co.). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (4-2-0; Levy and Zito Opposed). CEQA: Mitigated Negative Declaration.**
GP05-06-04 – District 6

10.4 (Cont'd.)

Documents Filed: (1) Memorandum from Acting Planning, Building and Code Enforcement Director Horwedel, dated June 1, 2006, transmitting the Planning Staff Report on Project File No. GP05-06-04 recommending to Council for approval of a General Plan Amendment Land Use/Transportation Diagram designation from Light Industrial to Medium High Density Residential; and (2) Memorandum from Planning Commission Secretary Horwedel, dated June 7, 2006, transmitting the Planning Commission's recommendation to Council for approval of the General Plan Amendment request.

Mayor Gonzales opened the Public Hearing. The applicant spoke in support of his request and the following individuals spoke in opposition. Cheryl Faust, John Urban and Craig Urban, Newhall Neighborhood Association.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, the recommendations of the Staff and Planning Commission were tentatively approved, the public hearing was closed and additional direction to Staff, as set forth in the joint memorandum of Vice Mayor Chavez and Council Member Yeager, and including the additional direction specified above in Item 10.3. (9-0-2) Absent: Chirco; Cortese.

10.5 Amendment for property located on an approximately 74-acre site in an area generally bounded by Monterey Highway to the northeast, State Route 85 to the south, and Manassas Road to the northwest, otherwise known as the iStar property (Gerry DeYoung, applicant/iStar San José, LLC, Owner). Council District 2. CEQA: Resolution to be adopted. (See "Action" section below for CEQA Resolution adopted.)

- (a) Tentative approval to request to change the Land Use/Transportation Diagram designation from Industrial Park to Mixed Use with No Underlying Designation.

GP03-02-05 – District 2

- (b) Tentative approval to request to update the General Plan Mixed Use Inventory Appendix F, and a Text Amendment to increase the building height limit from 50 feet to 120 feet.

GPT03-02-05 – District 2

- (c) Consideration of a resolution approving the Edenvale Area Development Policy Modification to provide for inclusion of the site and development of up to 1.0 million square feet of industrial uses and up to 450,000 square feet of commercial uses on the site.

- (d) Rezoning from the A (PD) Planned Development Zoning District to A (PD) Planned Development Zoning District to allow a commercial and mixed-use project consisting of up to one million square feet of industrial park land uses and up to 450,000 square feet of commercial land uses on an approximately 74-acre site.

PDC04-100 – District 2

[Continued from 4/18/06 – Item 10.4(a)-(d)]

(Heard concurrently with Item 11.2).

10.5 (Cont'd.)

Documents Filed: (1) Memorandum from Acting Planning, Building and Code Enforcement Director Horwedel, dated June 1, 2006, transmitting the Planning Staff Report on General Plan Land Use and text amendments relating to GP03-02-05, GPT03-02-05 and PDC04-100; (2) Memorandum from Planning Commission Secretary Horwedel, dated June 6, 2006, transmitting the Planning Commission's recommendation to Council for approval of all four project elements; and (3) Memorandum from City Attorney Doyle, dated June 20, 2006, transmitting a draft EIR findings resolution addressing the need for a Statement of Overriding Considerations for the iStar Project. (See Item 11.5 for additional documents filed.)

Mayor Gonzales opened the Public Hearing. The applicant stated he was available for questions. Mayor Gonzales closed the public hearing.

Motion: Council Member Williams moved approval of the recommendations of the Staff and Planning Commission, and read the following Statement of Overriding Considerations: The Final EIR for this proposed Project identified significant and unavoidable environmental impacts. However, as described in more detail in our proposed resolution of EIR findings for this item, there is no feasible way to lessen or avoid these significant effects for this Project, and approval of this proposed Project is anticipated to result in several benefits to our City. All of these benefits outweigh the significant unavoidable environmental impacts identified in the Final EIR for this Project. Vice Mayor Chavez seconded the motion.

Action: On a call for the question, the motion carried unanimously and the request to change the Land Use/Transportation Diagram designation to Mixed Use with No Underlying Designation; the request to update the General plan Mixed Use Inventory Appendix F, and a Text Amendment to increase the building height limit from 50 feet to 120 feet; the rezoning of the approximately 74-acre site to A(PD) Planned Development Zoning District to allow a commercial said mixed use project, were approved; [CEQA Resolution No. 73259](#), entitled: "A Resolution of the City Council of the City of San José Making Certain Findings Concerning Mitigation Measures, Adopting a Mitigation Monitoring and Reporting Program, Making Findings Concerning Alternatives, and Adopting a Statement of Overriding Considerations in Accordance with the California Environmental Quality Act for the iStar General Plan Amendment and Planned Development Zoning Project for Which an Environmental Impact Report has Been Prepared in Accordance with the California Environmental Quality Act"; [Resolution No. 73260](#), entitled: "A Resolution of the Council of the City of San José Further Modifying the Edenvale Area Development Policy to Provide for Inclusion Within the Policy Area of that Certain Site Generally Bounded by Monterey Highway, State Route 85 and Manassas Road (Commonly Known as the iStar Site) and Provide for the Development of up to One Million Square Feet of Industrial Uses and Up to Four Hundred Fifty Thousand Square Feet of Commercial Uses on Such site, were adopted; and [Ordinance No. 27795](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property situated in an Area Generally Bounded by Monterey Highway to the Northeast, State Route 85 to the South and Manassas Road to the Northwest to A(PD) Planned Development Zoning District", was passed for publication. (10-0-1). Absent: Chirco.

10.6 The project being considered is located at the southwest corner of Tully Road and Capitol Expressway (General Growth Properties, LLC, Owner/ Rayjer Properties, Applicant). Council District 8. CEQA: Mitigated Negative Declaration.

- (a) Tentative approval for General Plan amendment request to change the Land Use/Transportation Diagram designation from Industrial Park to Regional Commercial on a 1.4 acre-portion of an approximately 7-acre parcel. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1; Platten Absent).
GP05-08-02 – District 8
(Heard concurrently with Item 11.12).**

Documents Filed: (1) Memorandum from Council Member Cortese, dated June 20, 2006, recommending approval of the Staff recommendation on File No. GP05-08-02 for a General Plan amendment to change the Land Use/Transportation Diagram designation to Regional Commercial on a 1.4 acre portion of a 7.0 acre parcel; and on File No. C05-125, and approve the Staff recommendation to defer action on overriding a determination by the ALUC regarding Conforming Zoning on File No. C05-125, and to defer action on a Conforming Zoning to IP Industrial Park on 4.2 acres and CG Commercial General Zoning District on 2.8 acres. (2) See Item 4.4 on Council Agenda of August 8, 2006, for the Staff Report on File No. GP05-08-02 (approved on June 20, 2006 as 10.6(a), and for C05-125 heard on August 8, 2006 as Item 4.4).

Public Comments: Mayor Gonzales opened the public hearing and the following speakers addressed Council on the item: Carl Honaker (County Airports) spoke in opposition to the proposed project. Bill Sanders (California Pilots Association) and Polina Spivak spoke against the project. Mayor Gonzales closed the public hearing.

Council Members LeZotte, Pyle and Reed expressed opposition to the General Plan Amendment request.

Action: Upon motion by Council Member Cortese, seconded by Vice Mayor Chavez, and carried, Council Member Cortese's memorandum dated June 20, 2006, was approved, and the recommendation of the Staff and Planning Commission to approve the General Plan Amendment request to Regional Commercial on a 1.4 acre-portion of an approximately 7-acre parcel on File No. GP05-08-02 was tentatively approved, and the actions related to the conforming rezoning request on File No. C05-125 were continued to August 8, 2006. (7-3-1. Noes: LeZotte, Pyle, Reed. Absent: Chirco.)

- (b) Adoption of a resolution overriding a determination by the Santa Clara County Airport Land Use Commission that conforming rezoning File No. C05-125, is inconsistent with the land use plan for areas surrounding Santa Clara County Airports.**
- (c) Conforming Rezoning from A Agriculture Zoning District to IP Industrial Park and CG Commercial General Zoning Districts to allow industrial and commercial uses on a 7.0 gross acre site.
C05-125 – District 8**

Action: Item 10.6(b)(c) continued to August 8, 2006.

10.7 The project being considered is bounded by Asbury Street to the north, North First Street to the east, East Taylor Street to the south, and Miller Street to the west (88 Asbury Street). (Green Valley Corporation Barry Swenson, Owner/Developer). Council District 3. CEQA: Mitigated Negative Declaration.

- (a) Consideration of a resolution upholding the Mitigated Negative Declaration for a General Plan Text Amendment request to allow a maximum allowable building height of 200 feet above ground level and rezoning from A(PD) Planned Development Zoning to a Planned Development Zoning District to allow an increase in building height from 150 to 200 feet, and addition of up to 100 units for a total of 500 multi-family attached residential units on a 2.80 gross acre site.**
- (b) Tentative approval for General Plan Text Amendment request to allow a maximum allowable building height of 200 feet above ground level.
GP04-T-02 – District Citywide**
- (c) Consideration of an ordinance rezoning from A(PD) Planned Development Zoning District to a Planned Development Zoning District to allow an increase in building height from 150 to 200 feet, and addition of up to 100 units for a total of 500 multi-family attached residential units on a 2.80 gross acre site.
PDC05-101 – District Citywide
(Heard concurrently with Item 11.4).**

Documents Filed: (1) Memorandum from Vice Mayor Chavez, dated June 20, 2006, recommending Council adoption of a resolution upholding the Mitigated Negative Declaration for General Plan text amendment and Planned Development Rezoning as recommended by Staff, tentative approval of proposed General Plan text amendment as proposed by Planning Commission and Staff, and deferral of proposed Planned Development Rezoning until August 2006 to allow further clarification and refinement to development standards; (2) Planning Staff Report, dated May 18, 2006, recommending Council approval of General Plan Text Amendment for Project GP04-T-02 and planned development rezoning for PDC05-101; (3) Memorandum from Planning Commission Secretary Horwedel, dated May 30, 2006, transmitting the Planning Commission's recommendation to Council for approval of both specified projects; (4) Proof of publication of Notice of Public Hearing, executed on May 12, 2006, submitted by the City Clerk. (See additional document filed with 11.4).

Public Comment: Mayor Gonzales opened the public hearing and the following individuals addressed the issue.

Erik Schoennauer and Mark Gerhardt spoke in support of the project. William Lambson (Japantown Neighborhood Association) spoke in support of the project. The Applicant, Henry Cord, spoke in support of the Vendome Towers project. Mayor Gonzales closed the public hearing.

Motion: Vice Mayor Chavez moved approval of her memorandum dated June 20, 2006, recommending actions as listed above pertaining to File Nos. GO04-T-02 and PDC065-101. Council Member Campos seconded the motion.

10.7 (Cont'd.)

Discussion followed with direction as noted in "Action".

Action: On a call for the question, the motion carried unanimously, the Public Hearing was closed; the memorandum was approved as amended to direct Staff to look at LEED certifying the high rise building, and including outreach to the community and a report back to the Council; the Staff and Planning Commission recommendations upholding the Mitigated Negative Declaration for the project were approved; the General Plan Text Amendment was tentatively approved, and the proposed Planned Development Rezoning was deferred to August 2006; and [Resolution No. 73262](#), "A Resolution of the City Council of the City of San José Finding a Mitigated Negative Declaration Adopted for a Project Described in Application File Nos. GP04-T-02 and PDC05-101 has been Completed in Compliance with the California Environmental Quality Act", was adopted; and [Ordinance No. 27796](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeast Corner of Miller Street and Asbury Street to A(PD) Planned Development Zoning District", was passed for publication. (10-0-1). Absent: Chirco.

10.8 **Tentative Denial of General Plan Amendment request to change the Land Use/Transportation Diagram designation from Light Industrial to High Density Residential (25-50 Dwelling Units/Acre) on an approximately 23-acre site located on several parcels on the westerly side of North 10th Street, and the easterly side of North 7th Street between Commercial and Hedding Streets approximately 900 feet northwesterly of Hedding Street (922 and 1080 North 7th Street and 999 and 1045 North 10th Street) in the City of San José. (Goodwill Industries, Owner/ Charles W. Davidson Co., Applicant). CEQA: Incomplete. Director of Planning, Building and Code Enforcement and Planning Commission recommend denial. Planning Commission action deemed a negative recommendation pursuant to SJMC 18.08.100.**

GP05-03-05 - District 3

(Continued from 6/13/06 – Item 10.2)

Documents Filed: (1) Memorandum from Acting Planning, Building and Code Enforcement Director Horwedel, dated May 22, 2006, transmitting the Planning Staff Report on File No. GP05-03-05 recommending to Council for denial of a General Plan Amendment Land Use/Transportation Diagram designation from Light Industrial to High Density Residential; (2) Memorandum from Planning Commission Secretary Horwedel, dated June 1, 2006, transmitting the Planning Commission's recommendation to Council for denial of the General Plan Amendment for stated project; and (3) Supplemental memorandum from Planning Commission Secretary Horwedel, dated June 6, 2006, transmitting letters distributed to the Planning Commissioners but inadvertently omitted from the Planning Commission memorandum dated June 1, 2006.

10.8 (Cont'd.)

Public Comments: Mayor Gonzales opened the Public Hearing and the following individuals addressed Council on the issue.

Mark Lazzarini, the applicant, spoke to the merits of the General Plan. Georgia Tassos (Total Class Services, Inc.) and William Lambson spoke in opposition. Mark Gerhardt (Vendome Neighborhood Association) suggested an area-wide approach. Kerri Hamilton (Berryessa Citizens Advisory Council) spoke in favor of the staff's recommendation to deny. Mayor Gonzales closed the public hearing.

Motion: Vice Mayor Chavez moved to oppose the tentative denial of the General Plan Amendment request. Council Member Pyle seconded the motion.

Acting Director of Planning, Building and Code Enforcement Joe Horwedel responded to Council questions and concerns.

Council Member LeZotte stated that this is an inappropriate site for a conversion. Mayor Gonzales expressed concern that the applicant is a nonprofit. Council Member Williams concurred.

Action: On a call for the question, the motion carried, the public hearing was closed, and the recommendation of the Staff and Planning Commission was approved and the General Plan Amendment request was denied. (7-3-1). Noes: LeZotte, Williams; Gonzales. Absent: Chirco.

10.9 Adoption of a resolution approving all General Plan amendment actions taken on June 13, 2006 and June 20, 2006 and adoption of any related CEQA resolutions. (Planning, Building and Code Enforcement)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, and unanimously carried, the recommendation to approve all tentative General Plan amendment actions taken on June 13, 2006 and June 20, 2006 was approved, and [Resolution No. 73263](#), approving all General Plan amendment actions taken on June 13, 2006 and June 20, 2006 and adoption of any related CEQA resolutions, was adopted, (10-0-1 Absent: Chirco); and [Resolution No. 73214](#), entitled: "A Resolution of the City Council of the City of San José Finding a Mitigated Negative Declaration Adopted for a Project Described in Application File No. GP05-04-03 Has Been Completed in Compliance with the California Environmental Quality Act", (approved by Council on June 13, 2006 as Item 10.3), was adopted. (10-0-1. Absent: Chirco.)

END OF GENERAL PLAN PUBLIC HEARINGS

PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) Consideration of an ordinance rezoning the real property located on the east side of De Anza Boulevard, 350 feet northerly of Sharon Drive (1426 S. De Anza Boulevard) (Yu-Sheng Kao, Owner) from R-2 Residential District to A(PD) Planned Development Zoning District Residential District to allow up to four single family attached/detached residences on a 0.52 gross acre site. CEQA: Exempt.
PDC05-027 – District 1**

Document filed: (1) Proof of publication of Notice of Public Hearing, executed on May 12, 2006, submitted by the City Clerk.

Action: Continued to August 15, 2006.

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

PUBLIC HEARINGS

11.2 The project being considered is located on an approximately 74-acre site in an area generally bounded by Monterey Highway to the northeast, State Route 85 to the south, and Manassas Road to the northwest, otherwise known as the iStar property (Gerry DeYoung, applicant/iStar San José, LLC, owner). Council District 2. CEQA: Resolution to be adopted.

(a) Tentative approval of a request to change the Land Use/Transportation Diagram designation from Industrial Park to Mixed Use with No Underlying Designation.

GP03-02-05

(b) Tentative approval of a request to update the General Plan Mixed Use Inventory Appendix F, and a Text Amendment to increase the building height limit from 50 feet to 120 feet.

GPT03-02-05

(c) Consideration of a resolution to modify the Edenvale Area Development Policy Modification to provide for inclusion of the site and development of up to 1.0 million square feet of industrial uses and up to 460,000 square feet of commercial uses on the site.

(d) Consideration of an ordinance rezoning the real property located from the A (PD) Planned Development Zoning District to A (PD) Planned Development Zoning District to allow a commercial and mixed-use project consisting of up to one million square feet of industrial park land uses and up to 450,000 square feet of commercial land uses on an approximately 74-acre site.

PDC04-100

Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0). CEQA: EIR Resolution to be adopted. (CEQA Resolution No. 73259 adopted—See Item 10.5). District 2

[Continued from 4/18/06 – Item 10.4(a)-(d)]

(Heard concurrently with General Plan Item 10.5).

Documents Filed: (1) Correspondence from Erich Stiger, iStar Financial Inc., dated June 15, 2006, requesting Council approve the General Plan Amendments and Rezoning for the Great Oaks Industrial/Retail Project and certify the EIR; and (2) Hard copy of presentation by Planning Staff. (See Item 10.5 for additional documents filed, and for the Statement of Overriding Considerations in memorandum from City Attorney Doyle, dated June 20, 2006).

11.2 (Cont'd.)

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez, and unanimously carried, the request to change the Land Use/Transportation Diagram designation from Industrial Park to Mixed Use with No Underlying Designation on File No. GP03-02-05, and the update of the General Plan Mixed Use Inventory Appendix F, and a Text Amendment to increase the building height limit from 50 feet to 120 feet on File No. GPT03-02-05, were tentatively approved; [Resolution No. 73260](#), entitled: “A Resolution of the Council of the City of San José Further Modifying the Edenvale Area Development Policy to Provide for Inclusion Within the Policy Area of that Certain Site Generally Bounded by Monterey Highway, State Route 85 and Manassas Road (Commonly Known as the iStar Site) and Provide for the Development of up to One Million Square Feet of Industrial Uses and Up to Four Hundred Fifty Thousand Square Feet of Commercial Uses on Such site”, was adopted; and [Ordinance No. 27795](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property situated in an Area Generally Bounded by Monterey Highway to the Northeast, State Route 85 to the South and Manassas Road to the Northwest to A(PD) Planned Development Zoning District”, was passed for publication. (10-0-1. Absent: Chirco.

11.3 **Consideration of a resolution establishing a Historic City Landmark Historic District Designation encompassing the area generally bounded by E. San Salvador Street, west side of South 9th Street at Margaret Street, Interstate 280, west side of South 5th Street, together with properties on Carrie Street and along East Reed and William Street, between South 4th and 5th Streets on an approximately 25 acre site. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (4-0-2). HD06-155 (previously HD06-001) - District 3**

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated June 9, 2006, transmitting the Planning Staff's report and recommendation to Council for approval of historic district designation of project #HD06-155 (previously HD06-001); (2) Correspondence from Planning Commission Secretary Horwedel, dated June 15, 2006, transmitting the Planning Commission's recommendation to Council for approval of said project with the exclusion of property located at 546 S. 5th Street; and (3) Proof of publication of Notice of Public Hearing, executed on May 26, 2006, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. Michael Reandeau (South University Neighborhood) and Norman Finnance spoke in support of the requested rezoning. Mayor Gonzales closed the public hearing.

11.3 (Cont'd.)

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos, and unanimously carried, the recommendation of the Staff and Planning Commission was approved, and [Resolution No. 73261](#), entitled: “A Resolution of the Council of the City of San José Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Reed City Landmark Historic District, Generally Bounded by E. San Salvador Street, the West Side of South Ninth Street at Margaret Street, Interstate 280, and the West Side of South Fifth Street, Together with Properties on Carrie Street and Along East Reed and William Streets Between Fourth and Fifth Streets as a City Landmark Historic District Possessing a Significant Concentration or Continuity of Site, Building, Structures or Objects Unified by Past Events or Aesthetically by Plan or Physical Development and Directing the City Clerk to Provide Certain Notice of this Resolution”, was adopted. (10-0-1). Absent: Chirco.

11.4 The project being considered is bounded by Asbury Street to the north, North First Street to the east, East Taylor Street to the south, and Miller Street to the west (88 Asbury Street). (Green Valley Corporation Barry Swenson, Owner/Developer). Council District 3. CEQA: Mitigated Negative Declaration.

- (a) Consideration of a resolution upholding the Mitigated Negative Declaration for a General Plan Text Amendment request to allow a maximum allowable building height of 200 feet above ground level and A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow an increase in building height from 150 to 200 feet, and addition of up to 100 units for a total of 500 multi-family attached residential units on a 2.80 gross acre site.
- (b) Tentative approval for General Plan Text Amendment request to allow a maximum allowable building height of 200 feet above ground level.
GP04-T-02 – District Citywide
- (c) Consideration of an ordinance rezoning the real property located from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow an increase in building height from 150 to 200 feet, and addition of up to 100 units for a total of 500 multi-family attached residential units on a 2.80 gross acre site.

PDC05-101 – District Citywide

Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (4-0-2).

PDC05-101/GP04-T-02 - District 3

(Heard concurrently with General Plan Item 10.7).

11.4 (Cont'd.)

Documents filed: (1) Memorandum from Vice Mayor Chavez, dated June 20, 2006, recommending Council adoption of a resolution upholding the Mitigated Negative Declaration for General Plan text amendment and Planned Development Rezoning as recommended by Staff, tentative approval of proposed General Plan text amendment as proposed by Planning Commission and Staff, and deferral of proposed Planned Development Rezoning until August 2006 to allow further clarification and refinement to development standards. (2) Supplemental memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated June 15, 2006, transmitting technical corrections to the draft Development Standards as requested by Planning Commission at its May 24, 2006 meeting which included clarification of the phasing of the project and revised setbacks. (See Item 10.7 for additional documents filed).

Public Comments: See Item 10.7 for public comments.

Motion: Vice Mayor Chavez moved approval of her memorandum dated June 20, 2006, recommending actions as listed above pertaining to File Nos. GO04-T-02 and PDC065-101. Council Member Campos seconded the motion.

Action: On a call for the question, the motion carried unanimously, the memorandum from Vice Mayor Chavez dated June 20, 2006, was approved, and the General Plan Text Amendment GP4-T-02 was tentatively approved; [Resolution No. 73262](#), “A Resolution of the City Council of the City of San José Finding a Mitigated Negative Declaration Adopted for a Project Described in Application File Nos. GP04-T-02 and PDC05-101 has been Completed in Compliance with the California Environmental Quality Act”, was adopted; and [Ordinance No. 27796](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeast Corner of Miller Street and Asbury Street to A(PD) Planned Development Zoning District”, was passed for publication. (10-0-1). Absent: Chirco.

- 11.5 Consideration of an Appeal of the Planning Commission’s decision to deny a Conditional Use Permit and Liquor License Exception Permit to allow the off sale of alcoholic beverages within an existing retail commercial building (Target) on a 9.02 gross acre site, in the CG General Commercial Zoning District, located on the west side of Morrill Avenue, 550 feet southerly of Landess Avenue (2155 Morrill Avenue) (Betty L. Cheng, Trustee, Owner). Director of Planning, Building and Code Enforcement recommends to uphold appeal to approve. Planning Commission recommended approval (4-0-2). CEQA: Exempt. CP05-033 & ABC05-003 - District 4**

11.5 (Cont'd.)

Documents filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated June 1, 2006, recommending the Council overturn the Planning Commission's decision and approve the subject Conditional Use Permit and a Determination of Public Convenience or Necessity for subject location; (2) Supplemental memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated June 7, 2006, transmitting additional information from the San José Police Department stating their neutral position on the issuance of said permit based on revised information received from Department of Alcoholic Beverages Control (ABC); and (3) Proof of publication of Notice of Public Hearing, executed on June 9, 2006, submitted by the City Clerk.

Public Comments: Mayor Gonzales opened the public hearing and the following individuals addressed the Council. Beth Apoulafic, (representing Target, the applicant, spoke in support of the proposed project.

Speaking in opposition to the project were Amanpreet Gill, Jasbir Gill, Donna Gomez, Laddi Thuti, and Manjit Kaur. Mayor Gonzales closed the public hearing.

Motion: Council Member Reed moved to overturn the Planning Commission recommendation. Council Member Cortese seconded the motion.

City Attorney Richard Doyle and Acting Director of Planning, Building and Code Enforcement Joe Horwedel responded to Council questions and comments.

Vice Mayor Chavez expressed concern with the overconcentration of liquor stores in the area.

Council Members Pyle and Campos expressed opposition, both agreeing that there is conflicting information and this item should be continued.

Action: On a call for the question, the motion carried, and the recommendation of the Staff to overturn the Planning Commission's decision and to approve the Conditional Use Permit for the subject site was approved, and [Resolution No. 73264](#), entitled: "A Resolution of the City Council of the City of San José Approving a Conditional Use Permit and a Request for a Liquor License Exception Permit (Determination of Public Convenience or Necessity) to Use Certain Real Property Described Herein for the Purpose of Allowing Off-Sale of Alcoholic Beverages at an Existing Retail Commercial (Target Store) Building a 9.02 Gross Acre Site", was adopted. (6-4-1. Noes: Campos, Chavez, Pyle, Williams. Absent: Chirco.)

- 11.6 Consideration of an ordinance rezoning the real property located on the southeast corner of Stevens Creek and South Winchester Boulevard (3055 Olin Ave) (FRIT San José Town & Country Village, LLC, Owner/Developer) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to: (1) allow up to 400 additional multi-family attached residences (1,601 total units if a second hotel is not built); (2) allow an additional 15,000 square feet of retail/commercial space for a total of 695,000 square feet; (3) allow up to 20,000 square feet of currently permitted general retail/commercial space to be replaced with 20,000 square feet of restaurant space for a total of 115,200 square feet of restaurant/night club uses; and (4) reduction in required parking on the 40.79 gross acre Santana Row site.**
PDC05-030 - District 6

Document filed: Proof of publication of Notice of Public Hearing, executed on June 2, 2006, submitted by the City Clerk.

Action: The Public Hearing was opened and continued to August 15, 2006.

- 11.7 The project being considered is located on the east side of San Felipe Road, approximately 700 feet northerly of Silver Creek Road. (Pan Clair General Partnership, Owner; Dal Properties LLC, Developer). Council District 8. CEQA: Mitigated Negative Declaration.**
- (a) Consideration of a resolution upholding the Mitigated Negative Declaration for a rezoning from A-Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to 22 single family detached residences on a 17.98 gross acre site.**
 - (b) Consideration of an ordinance rezoning the real property located from A-Agriculture to A(PD) Planed Development Zoning District to allow up to 22 single family detached residence on a 17.98 gross acre site. Director of Planning, Building, and Code Enforcement recommends approval. Planning Commission's motion to approve the project with 22 units spread evenly across the site failed (2-3-1)**
- PDC05-035 - District 8**

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Director Horwedel, dated June 12, 2006, recommending Council adopt a resolution upholding the Mitigated Negative Declaration for project PDC05-035; (2) Memorandum from Planning Commission Secretary Horwedel, dated May 30, 2006, reporting that the Planning Commission was unable to pass a motion on the subject project therefore no recommendation is forthcoming; (3) Hard copy of Staff slide presentation, dated June 20, 2006; (4) Memorandum from Council Member Cortese, dated June 20, 2006, recommending Council approval of the Planning Staff recommendations on projects File GP05-08-02 and PDC05-035 and recommending eight modifications to said project; and (5) Proof of publication of Notice of Public Hearing, executed on May 12, 2006, submitted by the City Clerk.

11.7 (Cont'd.)

Acting Director of Planning, Building and Code Enforcement Horwedel presented an overview of the proposed project.

Public Comments: Mayor Gonzales opened the public hearing.

Mark Lazzarini spoke on behalf of the applicant. Mike Mace, the appellant, commented on his concerns about the proposed project. Speaking in support of the project was Kulwant Sidhu.

Speaking in opposition to the project were Doug Spencer, Kenin Tso, Bonnie Mace, Lawrence Caarguoni, Anna Huff, Tom Huff, Kris Kozminski, Rob Gelpman, Jean Valencia McCauley, Polina Spivak, Max Spivak, Lisa Catania, Darlene Vales, Brian Hunt, Ngoc Nguyen, John Smith, Boa Tran, George Holmes, Gloria Kirkmoat, Alan Tran, Rick Livengood, Henry Phan, Teela Huff and Michael Mace,

Mark Lazzarini provided a rebuttal.

Motion: Council Cortese moved approval of his memorandum dated June 20, 2006, recommending approval of the Planning Staff recommendations on projects GP05-08-02 and PDC05-035, and recommending eight modifications to the project. Vice Mayor Chavez seconded the motion.

Acting Director of Planning, Building and Code Enforcement Horwedel responded to Council questions and concerns.

Substitute Motion: Council Member Williams moved to defer the issue to enable more work to be done on a plan to manage the project and return to Council. The motion was seconded by Council Member Pyle.

On a call for the question, the substitute motion failed. (2-8-1). Noes: Campos, Chavez, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales. Absent: Chirco.

Action: On a call for the question, the original motion by Council Member Cortese failed, the public hearing was closed and the decision of the Planning Commission was upheld and the appeal and the requested Planned Development Rezoning were denied. (3-7-1). Noes: LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales. Absent: Chirco.

- 11.8 Consideration of an ordinance of the City of San José amending Chapter 20.40 of Title 20 of the San José Municipal Code, the zoning code, to allow privately operated community centers in the commercial office zoning district with a conditional use permit; amending Chapter 20.50 and 20.90 to correct oversights regarding off-sale of alcohol in the industrial zoning districts; amending Chapter 20.200 to include a definition for wireless communication antenna, slimline monopole; and making other non-substantive clarifying changes to Chapters 20.30, 20.40, 20.50, and 20.90. Staff recommendation: Approval. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (4-0-2). CEQA: Exempt, PP06-097
Citywide**

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated June 9, 2006, transmitting the Planning Staff report for consideration in adopting the proposed ordinance; (2) Memorandum from Planning Commission Secretary Horwedel, dated June 15, 2006, transmitting the Planning Commission's recommendation to Council to adopt the proposed ordinance; and (3) Proof of publication of Notice of Public Hearing, executed on June 2, 2006, submitted by the City Clerk.

Mayor Gonzales opened the public hearing and there was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Reed, seconded by Council Member Nguyen, and unanimously carried, the recommendation of the Staff and Planning Commission was approved, and [Ordinance No. 27797](#), entitled: "An Ordinance of the City of San José Amending Section 20.30.100 of Chapter 20.30, Section 20.40.100 of Chapter 20.40, Sections 20.50.100 and 20.50.110 of Chapter 20.50, and Section 20.90.060 of Chapter 20.90, All of Title 20 of the San José Municipal Code, to Conditionally Allow Privately Operated Community Centers in Commercial Office Zoning Districts, to Correct Oversights Regarding the Off-Sale of Alcoholic Beverages in Industrial Zoning Districts, and to Make Other Nonsubstantive, Clarifying Changes; and Amending Chapter 20.200 of Title 20 of the San José Municipal Code to Add a New Section 20.200.1430 to Provide a Definition of Wireless Communication Antenna", was passed for publication. (10-0-1). Absent: Chirco.

- 11.9 Consideration of an ordinance rezoning the real property located on the north side of West San Carlos Street, 650 feet westerly of Meridian Avenue (1465 W. San Carlos Street) (Muller Investment Company, Owner) from A(PD) Planned Development, R-2 Two Family Residence, and CP Commercial Pedestrian Zoning Districts to A(PD) Planned Development Zoning District to allow up to 11 live-work units and 84 single family attached residences on a 5.02 gross acre site. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (4-0-2).**

PDC05-080 - District 6

(Continued from 5/2/06 – Item 11.10)

11.9 (Cont'd.)

Mayor Gonzales opened the public hearing and there was no testimony from the floor. Mayor Gonzales closed the public hearing.

Documents Filed: (1) Memorandum from Acting Director of Planning, Building, and Code Enforcement Horwedel, dated June 8, 2006, transmitting the Planning Staff report recommending approval of project PDC05-080; and (2) Memorandum from Planning Commission Secretary Horwedel, dated June 15, 2006, transmitting the Planning Commission's recommendation to Council for approval of proposed rezoning of project PDC05-080.

Action: Upon motion by Council Member Reed, seconded by Vice Mayor Chavez, and unanimously carried, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27798](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of West San Carlos Street, 650 Feet Westerly of Meridian Avenue (1465 West San Carlos Street) to A(PD) Planned Development Zoning District", was passed for publication. (10-0-1). Absent: Chirco.

11.10 **Consideration of an ordinance rezoning the real property located on the east side of Highway 101, at the western terminus of San Antonio Court (305 San Antonio Ct) (Degery Didier Trustee, Owner; Affirmed Housing Group, Danny Serrano, Developer) from R-1-8 Residential Zoning District to A(PD) Planned Development Zoning District to allow 86 affordable multi-family attached residential units on a 2.19 gross acre site. SNI: Gateway East. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommended approval with a reduction in the number of units from 86 to 50 (5-0-1).**

PDC05-104 - District 5

(Continued from 6/13/06 – Item 11.3)

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated May 22, 2006, transmitting the Planning Staff report recommending to Council for approval of project PDC05-104; (2) Memorandum from Planning Secretary Horwedel, dated May 25, 2006, transmitting the Planning Commission's recommendation to Council for approval of the proposed rezoning with a reduction in maximum number of units from 86 to 50; (3) Correspondence from James Silverwood of Affirmed Housing Group, dated June 8, 2006, requesting Council's support of their original rezoning application for 86 units; (4) Supplemental memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated June 9, 2006, transmitting a zoning protest from James C. Hill and Dawn L. Hill Trust; (5) Correspondence from James Silverwood of Affirmed Housing Group, dated June 15, 2006, requesting Council's approval of the 86 unit housing

11.10 (Cont'd.)

rezoning application and attaching documentation showing community support; (6) Memorandum from Council Member Campos, dated June 20, 2006, recommending Council accept Staff's recommendation for approval of rezoning of said property, with additional direction to Staff as contained therein; (7) Correspondence from Keith Claxton, Vice President of NAI BT Commercial, dated June 20, 2006, providing documents and information to dispel negative impacts of the proposed project; and (8) Twelve (12) letters from the public in support of the project.

Public Comments: Mayor Gonzales opened the public hearing and the following individuals spoke on the issue.

James Silverwood, representing the applicant, Affirmed Housing Group, spoke in support of the proposed project.

Speaking in opposition to the proposed actions were Albert Gallegos, Naomi Gamez, Victor Valdez, Al Talamantes, Robert Garcia, Adrienne Valdez-Arenas, Gregg McKerroll, Delia Aragon, Felipe Zepeda, and Blany Martinez.

Speaking in support of the project were Charlotte Casey, Juan Loya, Catalina Loya, Joe Ochoa, Fuertuoso Gomez, Robert Pizano, Barbara Martin, Luis Dominguea, Anna Ochoa, Dan Renteria, Maria Loya, and Judy Sendig. Mayor Gonzales closed the public hearing.

Motion: Council Member Campos moved approval of her memorandum dated June 20, 2006, supporting the Staff recommendation for approval of the rezoning with additional directions. Vice Mayor Chavez seconded the motion.

Acting Director of Planning, Building and Code Enforcement Joe Horwedel responded to Council questions and concerns. A short discussion followed.

Action: On a call for the question, the memorandum and recommended rezoning with amendments was approved; Ordinance No. 27799, "An Ordinance of the City of San José Rezoning Certain Real Property Situated East Side of Highway 101 at the Western Terminus of San Antonio Court (305 San Antonio Court) to A(PD) Planned Development Zoning District", was passed for publication; and Staff directed to: (1) Continue to work with the community on concerns for traffic mitigations, water features, barbeque, pocket park, and amenities; and (2) Work with developer regarding access for the community room, providing a public egress and ingress and that this use is tied to the covenants. (10-0-1). Absent: Chirco.

- 11.11 Consideration of an ordinance rezoning the real property located at the southeast corner of Southwest Expressway and Fruitdale Avenue (John T. Vidovich, et al., Owner) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to increase the number of attached residential units from 500 to 502, to eliminate 250,000 square feet of commercial (office and retail) to reduce the maximum amount of retail from 30,000 square feet to 29,225 square feet and to modify the development standards for a 12.7 acre site. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (7-0-0) with a minimum of 50,000 and up to 100,000 square feet of retail/commercial uses focused along the street frontages. CEQA: Resolution No. 69886 and Addendum thereto.**

PDC05-095 - District 6

(Continued from 4/4/06 – Item 11.7, et al., and 6/13/06 – Item 11.5)

Documents Filed: (1) Memorandum from Council Member Yeager, dated June 19, 2006, recommending Council approval of the proposed rezoning, with the inclusion of the elements as noted therein. (2) Supplemental memorandum from Acting Director of Planning, Building and Code Enforcement Horwedel, dated May 5, 2006, transmitting applicant's revised plans, minor clarification by Staff to the Draft Development Standards, and Staff recommendation to Council for approval of the proposed rezoning of project PDC05-095; (3) Memorandum from Secretary of Planning Commission Horwedel, dated March 23, 2006, reporting the Planning Commission's recommendation of approval of the proposed rezoning as recommended by Staff. (4) Report of the Planning Staff, dated February 16, 2006, recommending approval of the proposed Planned Development Rezoning.

Public Comments: Mayor Gonzales opened the public hearing. The following individuals spoke on the issue.

The applicant spoke in support of the rezoning. Randi Kinman (Burbank/Del Monte Neighborhood Action Committee) expressed support for more retail; Michael LaRoca (Sherman Oaks Neighborhood Association), and Joe Pizza, stated concerns regarding structure heights and parking. Mark Lucas stated more retail is needed. The applicant spoke provided a rebuttal argument in favor.

Motion: Council Member Yeager moved approval of his memorandum dated June 19, 2006, supporting the Staff recommendation to approve the proposed rezoning with the additional elements specified in his memorandum. Council Member Reed seconded the motion.

Council Member LeZotte expressed concern with the local commercial retail.

11.11 (Cont'd.)

Action: On a call for the question, the motion carried, the public hearing was closed, the Planned Development Rezoning was approved, the memorandum from Council Member Yeager, dated June 19, 2006 was approved, including the following conditions: (1) To increase the height limit for Block E to 90 feet at the corner of Fruitdale Avenue and Southwest Expressway; (2) Enhanced landscaping elements; and (3) It is the intent of this condition that the Blocks A, B, C1, C2 and D, have the most favorable conditions, without mitigating circumstances, for the affordability restrictions that applied during the time period that the development approval was applied for, in the prior PD Permit both in time period and in the number affordable units. This would refer to the effect that community benefits played in any such decision. Block E has been substantially modified by this zoning and it shall be subject to the rules in effect as of the application date of the PD Permits for Block E. No subsidy has been granted for this project and, if subsidy is applied and provided, this condition may be subject to modification, were approved, and Ordinance No. 27800, "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeast Corner of Southwest Expressway and Fruitdale Avenue to A(PD) Planned Development Zoning District", was passed for publication. (9-1-1). Noes: LeZotte. Absent: Chirco.

11.12 The project being considered is located at the southwest corner of Tully Road and Capitol Expressway (General Growth Properties, LLC, Owner/ Rayjer Properties, Applicant). Council District 8. CEQA: Mitigated Negative Declaration.

- (a) **Tentative approval for General Plan amendment request to change the Land Use/Transportation Diagram designation from Industrial Park to Regional Commercial on a 1.4 acre-portion of an approximately 7-acre parcel. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-0-1; Platten Absent).**

GP05-08-02 – District 8

(Heard concurrently with General Plan Item 10.6.)

- (b) **Adoption of a resolution overriding a determination by the Santa Clara County Airport Land Use Commission that conforming rezoning File No. C05-125, is inconsistent with the land use plan for areas surrounding Santa Clara County Airports.**
- (c) **Conforming Rezoning from A Agriculture Zoning District to IP Industrial Park and CG Commercial General Zoning Districts to allow industrial and commercial uses on a 7.0 gross acre site.**

C05-125 – District 8

Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (5-0-1).

Documents Filed: See Item 10.6(a) for documents filed for 11.12(a).

11.12 (Cont'd.)

Action: Upon motion taken under Item 10.6 by Council Member Cortese, seconded by Vice Mayor Chavez, and carried, the recommendation of the Staff and Planning Commission to approve the General Plan Amendment request to Regional Commercial on a 1.4 acre-portion of an approximately 7-acre parcel on File No. GP05-08-02 was tentatively approved, and the actions related to the conforming rezoning request on File No. C05-125 were continued to August 8, 2006. (7-3-1). Noes: LeZotte, Pyle, Reed. Absent: Chirco.

OPEN FORUM

- (1) William Garbett objected to the Council's action to extend the Emergency Communication System Support Fee claiming it is a tax.
- (2) Mark Trout voiced religious viewpoints.
- (3) Scott Saber spoke in favor of the Historic District Designation (Item 11.3).

ADJOURNMENT

The Council of the City of San José adjourned at 1:20 a.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/6-20-06MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at www.sanjoseca.gov/clerk/MeetingArchive.asp

APPENDIX A

9.7 FY 2006-2007 Budget (Cont'd.)

Documents filed: (1) Memorandum from City Manager Les White, dated May 1, 2006, presenting the City Manager's Fiscal Year 2006-2007 Proposed Operating Budget for the City of San José. (2) Memorandum from City Manager Les White, dated April 24, 2006, presenting the City Manager's Fiscal Year 2006-2007 Proposed Capital Budget and the Fiscal Years 2007-2011 Capital Improvement Budgets for the City of San José. (3) Memorandum from Budget Director Larry Lisenbee, dated May 6, 2006, providing the Administration's Proposed Fees and Charges for FY 2005-2006. (4) E-mailed MBAs as follows: (a) from Parks, Recreation and Neighborhood Services, dated May 26, 2006, regarding Family Camp. (b) from Public Works, dated May 26, 2006, regarding the proposed CIP; (c) from Emergency Services, dated May 26, 2006, regarding LEED Certified Staff; (d) from Office of Economic Development, dated May 26, 2006, regarding Arts Education; (e) from Housing, dated May 25, 2006, regarding special needs housing. (f) from Department of Transportation, dated May 25 and 26, 2006, regarding Traffic CIP-ITS Enhancement Project; (g) from City Manager's Office, dated May 26, 2006, regarding the status of signage at the Convention Center and CPA. (h) from the Department of Transportation, dated May 26, 2006, regarding Street Smarts Grand Funding Information; (i) from the Police Department, dated June 1, 2006, regarding Crossing Guard program. (j) from the Airport Department, dated May 25, 2006, regarding Transportation and Aviation Services Performance Measure D; (k) from the CIO, dated May 23, 2006, regarding cellular phone reception; (l) from Redevelopment Agency, dated May 16, 2006, regarding the status of the Tully Center School Hub project; and (m), dated May 11, 2006, from the Department of Transportation, regarding flare clean-up after downtown events; (5) Correspondence from the Senior Citizens Commission, dated May 17, 2005, supporting Council Member LeZotte's suggestion that the Office on Aging be relocated as a unit to the former City Hall Health Building.

[A] 2005-2006 BUDGET DOCUMENTS (BD) AND DOCUMENT LOG: [1] Memorandum from Policy Office Director Joe Guerra, dated May 3, 2006, providing on the 2006-2007 review process prior to the Mayor's June Budget Message on June 7, 2006, and formal budget approval, with directions for the budget process and budget document template. [2] Memorandum from Council Member Chirco, dated May 18, 2006, recommending approval of funding for the Senior Nutrition Program entitled Addressing the Gaps in Aging Services. [3] Memorandum from Council Member LeZotte, dated May 19, 2006, requesting approval of District 1 Office Rebudget. [4] Memorandum from Council Member Pyle, dated May 19, 2006, requesting approval of District 10 Office Carry-over. [5] Memorandum from Council Member Chirco, dated May 22, 2006, recommending approval of funding for the Camden Community Center Staffing and Marketing Needs. [6] Memorandum from Council Member Pyle, dated May 22, 2006, recommending approval of funding for the Almaden Community Center Staffing Needs. [7] Memorandum from Council Member Nguyen, dated May 19, 2006, recommending approval of funding for the Vietnamese American Community Center Design and Master Plan Amendment. [8] Memorandum from Council Member LeZotte,

9.7 FY 2006-2007 Budget (Cont'd.)

dated May 22, 2006, recommending approval of funding for New City Hall Street Tree Installation. [9] Memorandum from Council Member Yeager, dated May 19, 2006, recommending approval of funding for Truancy Abatement-Burglary Suppression (TABS) Program. [10] Memorandum from Council Members Yeager and Chrigo, dated May 22, 2006, recommending approval of funding for the Young People's Theater. [11] Memorandum from Council Member Yeager, dated May 19, 2006, requesting approval of District 6 Office Carry-over. [12] Memorandum from Council Member Campos, dated May 22, 2006, requesting approval of District 5 Office Carry-over. [13] Memorandum from Council Member Chirco, dated May 22, 2006, requesting approval of District 9 Office Rebudget. [14] Memorandum from Council Member Nguyen, dated May 22, 2006, requesting approval of District 7 Office Carry-over. [15] Memorandum from Vice Mayor Chavez, dated May 22, 2006, requesting approval of District 3 Office Rebudget. [16] Memorandum from Council Member Cortese, dated May 22, 2006, requesting approval of District 8 Office Rebudget. [17] Memorandum from Council Member Reed, dated May 22, 2006, requesting approval of District 4 Office Carry-over. [18] Memorandum from Council Member Reed, dated May 22, 2006, recommending approval of Crossing Guards Enhanced Funding. [19] Memorandum from Council Member Reed, dated May 22, 2006, recommending approval of 2006-2007 Festival, Parade and Celebration Funding. [20] Memorandum from Council Member Reed, dated May 22, 2006, recommending approval of funding for Crime Prevention and Community Educations Programs Reinstatement. [21] Memorandum from Council Member Reed, dated May 22, 2006, recommending approval of funding for PAL Stadium Maintenance. [22] Memorandum from Council Member Reed, dated May 22, 2006, recommending approval of funding for the Veteran's Day Parade Subsidy. [23] Memorandum from Council Member Reed, dated May 22, 2006, recommending approval of funding for Investigative Services: Police Department Administrative and Analytical Staffing. [24] Memorandum from Council Member Campos and Vice Mayor Chavez, dated May 22, 2006, recommending approval of funding for PAL Stadium Maintenance. [25] Memorandum from Council Member Williams, dated May 22, 2006, requesting approval of District 2 Office Rebudget, FY 2006-2007. [26] Memorandum from Council Member Williams, dated May 22, 2006, recommending approval of funding for Resurface of the westbound lanes of Bailey Avenue from 945 feet west of Santa Teresa Boulevard to the west end of the IBM Corporation site. [27] Memorandum from Council Member Williams, dated May 22, 2006, recommending approval of funding for Resurface of Monterey Road from Blossom Hill Road to Bernal Road in both directions. [28] Memorandum from Council Member Williams, dated May 22, 2006, recommending approval of funding for Construction of 1.7 miles of a 15-foot wide median island with Type I level landscaping on Monterey Road between Ford Road and Bernal Road. [29] Memorandum from Council Member Yeager, dated May 19, 2006, recommending approval of funding for Two Business Development positions at the Airport. [30] Memorandum from Council Member Reed, dated May 22, 2006, recommending approval of funding for Northside Community Center. [31] Memorandum from Council Member Williams, dated May 22, 2006, recommending approval of funding from the Neighborhood Investment Reserve for Silver Leaf Neighborhood Association as a Pilot Neighborhood. [32] Memorandum from Vice Mayor Chavez, dated May 22, 2006,

9.7 FY 2006-2007 Budget (Cont'd.)

recommending approval of funding for the Truancy Abatement-Burglary Suppression (TABS) Program School Safety Program. [33] Memorandum from Vice Mayor Chavez, dated May 22, 2006, recommending approval of funding for the Healthy Neighborhoods Venture Fund (HNVF) Grant Program. [B] FISCAL YEAR 2006-2007 MANAGER'S BUDGET ADDENDA (MBA) AND DOCUMENT LOG: [1] Memorandum from Budget Director Larry Lisenbee, dated May 4, 2006, transmitting Budget Study Session agendas for the City's and Redevelopment Agency's Operating and City's Capital Budgets. [2] Memorandum from Economic Development Director Krutko, dated May 2, 2006, providing a status report on Emergency Communications System Support Fee outreach to businesses. [3] Memorandum from Planning Commission Secretary Horwedel, dated May 5, 2006, transmitting the Planning Commission's recommendation to Council for adoption of the Proposed 2007-2011 Capital Improvement Program (CIP). [4] Memorandum from Budget Director Lisenbee, dated May 11, 2006, providing replacement pages for the 2006-2007 Proposed Fees and Charges Report. [5] Memorandum from Budget Director Lisenbee, dated May 9, 2006, recommending Council approval of replacement of proposal included in 2006-2007 Proposed Operating Budget for Employee Services Department. [6] Memorandum from Budget Director Lisenbee, dated May 9, 2006, providing a detailed report on existing position vacancies by City Service Area or department. [7] Memorandum from Acting Planning, Building and Code Enforcement Director Horwedel, dated May 9, 2006, responding to the Mayor's 2006 Budget Message direction to review the Abandoned Shopping Cart Program effectiveness. [8] Memorandum from General Services Director Jensen, Finance Director Johnson, and Budget Director Lisenbee, dated May 17, 2006, providing supplemental information requested during budget study sessions regarding City Hall costs. [9] Memorandum from Emergency Services Director Shunk, dated May 17, 2006, providing a budget proposal for expanding San José Prepared. [10] Memorandum from Library Director Light, dated May 18, 2006, requesting Council consideration of Library Department staffing for Early Care and Lifelong Literacy program. [11] Memorandum from Police Chief Davis, Emergency Services Director Shunk and Fire Chief Clet, dated May 16, 2006, responding to the Mayor's March 2006 Budget Message to report on progress of consolidation of grants administration functions for Police, Fire and Office of Emergency Services Departments. [12] Memorandum from Budget Director Lisenbee, dated May 19, 2006, providing supplemental information regarding vacant positions recommended for elimination in the 2006-2007 Proposed Operating Budget. [13] Memorandum from Acting Planning, Building and Code Enforcement Director Horwedel, dated May 18, 2006, responding to Mayor's March 2006 Budget Message inquiry regarding how Code Enforcement Division's alternative enforcement strategy impacts neighborhoods. [14] Acting Parks, Recreation and Neighborhood Services Director Balagso, dated May 19, 2006, recommending Council consideration of funding for Children's Health Initiative, Homework Centers and Healthy Neighborhoods Venture Fund (HNVF) administration costs. [15] Memorandum from Acting Parks, Recreation and Neighborhood Services Director Balagso, dated May 25, 2006, recommending Council support for expanding the San José After School system. [16] Memorandum from Fire Chief Clet, dated May 24, 2006, responding to a budget hearing inquiry as to whether there has been an increase in number of occupancies requiring complex

9.7 FY 2006-2007 Budget (Cont'd.)

hazardous materials inspections. [17] Memorandum from Acting Parks, Recreation and Neighborhood Services Director Balagso, dated May 23, 2006, responding to budget session inquiry into the status of Parks, Recreation and Neighborhood Services Department's ability to meet the General Plan performance goals. [18] Memorandum from Acting Parks, Recreation and Neighborhood Services Director Balagso, dated May 17, 2006, recommending Council acceptance of report on the policies and procedures of the Community Action and Pride (CAP) grants. [19] Memorandum from General Services Director Jensen, dated May 23, 2006, responding to budget session inquiry regarding energy consumption at new City Hall in comparison to old City Hall. [20] Memorandum from Police Chief Davis, dated May 22, 2006, responding to budget session inquiry regarding the number of inappropriate 9-1-1 calls and anticipated impact of 2-1-1 calls. [21] Memorandum from Acting Parks, Recreation and Neighborhood Services Director Balagso, dated May 23, 2006, recommending Council continue current Adopt-A-Park efforts in San José Regional Parks. [22] Memorandum from Acting Planning, Building and Code Enforcement Director Horwedel and Fire Chief Clet, dated May 16, 2006, recommending Council authorize funds to staff an Industrial Tool Installation Program and amend Proposed 2006-2007 Fees and Charges Report to include a registration fee. [23] Memorandum from Acting Planning, Building and Code Enforcement Director Horwedel, dated May 23, 2006, responding to Item 5K in the adopted Mayor's March Budget Message pertaining to customer-focused building services. [24] Memorandum from Police Chief Davis, dated May 24, 2006, responding to budget session direction to complete an analysis of Domestic Violence and Child Abuse Crimes and Expansion of Domestic Violence Awareness and Prevention Program. [25] Memorandum from Department of Transportation Director Helmer, dated May 22, 2006, responding to budget session direction to report on Transportation Maintenance Backlog Reduction Strategy. [26] Memorandum from Department of Transportation Director Helmer, dated May 19, 2006, responding to budget session direction to report on Red Light Running Reduction efforts. [27] Memorandum from Deputy City Manager Shikada, dated May 25, 2006, reporting on Revisions to the Public Safety Capital Program in the FY2006-2007 Proposed Capital Budget and 2007-2011 Capital Improvement Program. [28] Memorandum from General Service Director Jensen, dated May 24, 2006, responding to direction to report on the status of the Fire Dispatch Channel Expansion project. [29] Memorandum from Economic Development Director Krutko, dated responding to Council Member LeZotte's request for information pertaining to the City of Santa Clara's Per Capita Sales Tax compared with the City of San Jose. [30] Memorandum from Fire Chief Clet, dated May 24, 2006, responding to budget session direction to explore the possibility of raising fees for multiple or repeat violators of Fire and Hazardous Material safety laws. [31] Memorandum from Emergency Services Director Shunk, dated May 26, 2006, responding to budget session direction to report on emergency services staffing compared to other cities. [32] Memorandum from Acting Parks, Recreation and Neighborhood Services Director Balagso, dated May 26, 2006, responding to budget session direction to report on the stated scope of work for the amount of funds indicated for the trail projects on page V-291 of the Proposed 2006-2007 Capital budget. [33] Memorandum from Acting Parks,

9.7 FY 2006-2007 Budget (Cont'd.)

Recreation and Neighborhood Services Director Balagso, dated May 26, 2006, recommending Council approval of amendments to the Proposed 2006-2007 Capital Budget to provide additional funds for the Columbus Park Horseshoe Court Project. [34] Memorandum from Aviation Director Sherry, dated May 26, 2006, responding to Council inquiry regarding the base budget reallocation of two positions in the Airport's Business Development and Community Relations Division, as referenced on page VII-397 of the 2006-2007 Proposed Operating Budget. [35] Memorandum from Acting Parks, Recreation and Neighborhood Services Director Balagso, and Economic Development Director Krutko, dated May 26, 2006, responding to budget session direction to report on Guadalupe River Park and Gardens event usage. [36] Memorandum from Acting Parks, Recreation and Neighborhood Services Director Balagso, dated May 24, 2006, responding to budget session direction to report on the Older Adult Resource Services Program. [37] Memorandum from General Service Director Jensen, dated May 24, 2006, recommending Council extend the Special Events Reduction Program through September 31, 2006. [38] Memorandum from Employee Services Director Danaj, dated May 17, 2006, responding to budget session direction to report on medical insurance expense reduction initiatives to manage use and demand for services. [39] Memorandum from Employee Services Director Danaj, dated May 23, 2006, responding to budget session directions to report on the volume and quality of external recruitment/outreach efforts. [40] Memorandum from Finance Director Johnson, dated May 26, 2006, recommending Council (1) Direct Staff to return to Council in August 2006 with a specific delinquency collections plan and related budget augmentation actions in the range of \$750,000 as a temporary measure to focus on reducing the number of delinquent accounts owed to the City by funding temporary staffing, contract services, and non-personal costs, (2) Direct the Director of Finance to issue a Request for Proposal for various Collection Agency services, and (3) Accept the Status Report on the Collection of Delinquent Accounts. [41] Memorandum from Environmental Services Director Stufflebean, dated May 30, 2006, recommending Council approve position two changes in the Environmental Services Department. [42] Memorandum from Aviation Director Sherry, dated May 26, 2006, responding to budget session request for information on Airport Public Safety Staffing Comparisons. [43] Memorandum from Assistant City Manager Linder, dated May 30, 2006, recommending budget amendments regarding expanding strong neighborhoods City-wide. [44] Memorandum from General Service Director Jensen, and Public Works Director Allen, dated May 23, 2006, responding to budget session direction to evaluate all City-owned land available for sale. [45] Memorandum from Environmental Services Director Stufflebean, dated May 30, 2006, responding to budget session direction to report on the Norcal/California Waste Solutions commitment to conduct a Waste Characterization Study. [46] Memorandum from Economic Development Director Krutko, dated May 30, 2006, submitting the HP Pavilion Capital Repairs and Replacement Budgets for both 2005-2006 and 2006-2007 as submitted by the San José Arena Authority Board of Directors. [47] Memorandum from Police Chief Davis, dated May 25, 2006, responding to budget session direction to evaluate and report on new service models for Police Department records and photo lab staffing. [48] Memorandum from Acting Parks, Recreation and Neighborhood Services Director Balagso, dated May 30, 2006, responding to budget session request to provide additional information related

9.7 FY 2006-2007 Budget (Cont'd.)

to the Facility Re-Use Request for Qualification Process. [49] Memorandum from Police Chief Davis, dated May 31, 2006, reporting on Cruising Abatement Program in response to budget direction to review and report alternative options to address the problem of cruising in the downtown. [50] Memorandum from Budget Director Lisenbee, dated June 5, 2006, recommending amendments to the 2006-2007 Proposed Operating and Capital Budgets. [51] Memorandum from Budget Director Lisenbee, dated June 6, 2006, providing additional information regarding an available 2006-2007 General Fund Expenditure Revision.

JOINT REDEVELOPMENT AGENCY BOARD/CITY COUNCIL

The Joint Redevelopment Agency Board convened at 5:28 p.m. to consider Item 8.1 in a Joint Session.

8.1 Award of a contract to the low bidder for the North Almaden Ave. Streetscape Project and related actions.

- (a) Adoption of a resolution by the City Council making determinations required under Redevelopment Law, Section 33445, for Redevelopment Agency funding of proposed improvements to North Almaden Avenue; and,**
- (b) Adoption of a resolution by the Agency Board approving an adjustment to the Adopted FY 2005-06 Capital Budget, to reallocate \$144,000, from the existing Downtown Streetscapes line item to the Almaden Avenue Improvements in the Merged Redevelopment Area, and amending the FY 2005-06 Agency appropriations resolution, and,**
- (c) Adoption of a resolution by the Redevelopment Agency Board awarding a contract to Sposeto Engineering, Inc., Inc., the low bidder, in the amount of \$573,000 for the North Almaden Avenue Streetscape Project, and establishing a 10% project contingency in the amount of \$57,300, for a total construction budget not to exceed \$630,300.**

CEQA: Exempt. File No. PP06-105 [SNI: 13th STREET]

Documents Filed: Memorandum from Executive Director Mavrogenes, dated June 27, 2006, recommending City Council adopt a resolution (1) accepting the summary of costs and findings of the attached Amended Summary 33433 Report, pursuant to the California Health and Safety Code Section 33433 for the lease with Century Flames, Inc.; and the Redevelopment Agency Board approve the Second Amendment to said Restaurant Lease with Century Flames, Inc., for the property located at 88 South Fourth Street, as described.

Public Comment: William Garbett spoke in opposition to the proposed project.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, and unanimously carried, [Resolution No. 73244](#), entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Required by State Law for the Expenditure of Redevelopment Agency Funds on Certain Public Improvements to North Almaden Avenue", was adopted; and Redevelopment Agency Resolution No. 5686 approving the adjustment to the Adopted FY 2005-06 Capital Budget; and Redevelopment Agency Resolution No. 5687, awarding a contract to Sposeto Engineering, Inc., Inc., the low bidder, for the project, were adopted, (10-0-1). Absent: Chirco.

The Council of the City of San José, and Redevelopment Agency Board adjourned at 5:30 p.m.